GENERAL RULES OF PRACTICE

General Rules of Practice for the District Courts

Adopted September 5, 1991 Effective January 1, 1992
With amendments received through August 1, 2007

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TEXT OF RULES

TITLE I – RULES APPLICABLE TO ALL COURT PROCEEDINGS

[For text of Rules 1 to 7, see M.S. 2006, Volume 15]

Rule 8. Interpreters

Revisor's Note: Supreme Court Order dated October 13, 2005, provided in part: "The Rules on Certification of Court Interpreters shall no longer exist as stand–alone rules. All rules pertaining to the certification and regulation of interpreters shall be contained within the General Rules of Practice."

Rule 8.01. Statewide Roster

The State Court Administrator shall maintain and publish annually a statewide roster of certified and non–certified interpreters which shall include:

(a) Certified Court Interpreters: To be included on the Statewide Roster, certified court interpreters must have satisfied all certification requirements pursuant to Rule 8.04.

(b) Non–certified Foreign Language Court Interpreters: To be included on the Statewide Roster, foreign language court interpreters must have: (1) completed the interpreter orientation program sponsored by the State Court Administrator; (2) filed with the State Court Administrator a written affidavit agreeing to be bound by the Code of Professional Responsibility for Interpreters in the Minnesota State Court System as the same may be amended from time to time; (3) received a passing score on a written ethics examination administered by the State Court Administrator; and (4) demonstrated minimal language proficiency in English and any foreign language(s) for which the interpreter will be listed, as established by protocols developed by the State Court Administrator.

(c) Non–certified Sign Language Court Interpreters: To be included on the Stateside Roster, non–certified sign language court interpreters must

(1) have satisfied the three requirements set forth above in Rule 8.01(b);

(2) be a member in good standing with the Registry of Interpreters for the Deaf (RID) or with the National Association of the Deaf (NAD); and,

(3) possess

(i) both a valid Certificate of Transliteration (CT) and a valid Certificate of Interpretation (CI) from RID; or

(ii) a valid Comprehensive Skills Certificate (CSC) from RID; or

(iii) a valid Level 5 certificate from NAD; or

(iv) a valid Certified Deaf Interpreter (CDI) or Certified Deaf Interpreter Provisional (CDIP) certificate from RID; or

(v) another equivalent valid certification approved by the State Court Administrator.

(Added effective January 1, 1996; amended effective January 1, 1998; amended effective March 15, 2002; amended effective January 1, 2006; amended effective January 1, 2007.)

Advisory Committee Comments – 2007 Amendment

Rule 8.01(b) is amended to add a new subsection (4). This subsection imposes an additional requirement that court interpreters demonstrate proficiency in English as well as the foreign languages for which they will be listed. This provision is necessary because certification is currently offered only in 12 languages and many of the state's interpreters are not certified. This change is intended to minimize the current problems involving need to use non–certified interpreters who now often do not possess sufficient English language skills to be effective.

(Added effective January 1, 2007.)

[For text of 8.02 to 8.04, see M.S. 2006, Volume 15]

Rule 8.05. Examination for Legal Interpreting Competency

(a) Examination. Examinations for legal interpreting competency in specific languages shall be administered at such times and places as the Coordinator may designate.

1. Scope of Examination. Applicants for certification in interpreting in a spoken or sign language may be tested on any combination of the following:

a. Sight Interpretation;

b. Consecutive Interpretation;

c. Simultaneous Interpretation; and

d. Transliteration (when applicable).

2. Denial of Opportunity to Test. An applicant may be denied permission to take an examination if an application, together with the application fee, is not complete and filed in a timely manner.

3. Results of Examination. The results of the examination, which may include scores, shall be released to examinees by regular mail to the address listed in the Coordinator's files. Statistical information relating to the examinations, applicants, and the work of the State Court Administrator's Office may be released at the discretion of the State Court Administrator's Office. Pass/fail examination results may be released to (1) District Administrators by the State Court Administrator's Office for purposes of assuring that interpreters are appointed in accordance with Rule 8.02, and (2) any state court interpreter certification authority.

4. Testing Accommodations. A qualified applicant with a disability who requires reasonable accommodations must submit a written request to the Coordinator at the same time the application is filed. The Coordinator will consider timely requests and advise the applicant of what, if any, reasonable accommodations will be provided. The Coordinator may request additional information, including medical evidence, from the applicant prior to providing accommodations to the applicant.

5. Confidentiality. Except as otherwise provided in Rule 8.05(a)3, all information relating to the examinations is confidential unless the examinee waives confidentiality. The State Court Administrator's Office shall take steps to ensure the security and confidentiality of all examination information.

(Added effective January 1, 2006; amended effective January 1, 2007.)

Advisory Committee Comments – 2007 Amendment

Rule 8.05(a)(3) is amended to facilitate verification of interpreters' qualification by permitting the release of the interpreter test results to court administrators or interpreter program administrators.

Rule 8.05(a)(5) is amended to provide for the waiver of confidentiality by examinees for the purpose of permitting the release of examination information upon their request.

(Added effective January 1, 2007.)

[For text of 8.06 to 9.07, see M.S. 2006, Volume 15]

Rule 10. Tribal Court Orders and Judgments

[For text of 10.01 and 10.02, see M.S. 2006, Volume 15]

Advisory Committee Comment – 2007 Amendment

Introduction. *Rule 10 is a new rule intended to provide a starting point for enforcing tribal court orders and judgments where recognition is mandated by state or federal law (Rule 10.01), and to establish factors for determining the effect of these adjudications where federal or state statutory law does not do so (Rule 10.02).*

The rule applies to all tribal court orders and judgments and does not distinguish between tribal courts located in Minnesota and those sitting in other states. The only limitation on the universe of determinations is that they be from tribal courts of a federally–recognized Indian tribe. These courts are defined in 25 U.S.C. section 450b(e), and a list is published by the Department of the Interior, Bureau of Indian Affairs. See, e.g., 70 FED. REG. 71194 (Nov. 25, 2005).

Tribal court adjudications are not entitled to full faith and credit under the United States Constitution, which provides only for full faith and credit for "public acts, records, and judicial proceedings of every other state." U.S. CONST. Art IV, section 1. But state and federal statutes have conferred the equivalent of full faith and credit status on some tribal adjudications by mandating that they be enforced in state court. Where such full faith and credit is mandatory, a state does not exercise discretion in giving effect to the proper judgments of a sister state. Baker v. Gen. Motors Corp., 522 U.S. 222, 233 (1998) ("A final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land.") Through full faith and credit, a sister state's judgment is given res judicata effect in all other states. See, e.g., id.; Hansberry v. Lee, 311 U.S. 32, 42 (1940).

The enforcement in state court of tribal court adjudications that are not entitled to the equivalent of full faith and credit under a specific state or federal statute, is governed by the doctrine of comity. Comity is fundamentally a discretionary doctrine. It is rooted in the court's inherent powers, as was early recognized in United States jurisprudence in Hilton v. Guyot, 159 U.S. 113, 163–164 (1895), where the court said: "No law has any effect, of its own force, beyond the limits of the sovereignty from which its authority is derived. The extent to which the law of one nation, as put in force within its territory, whether by executive order, by legislative act, or by judicial decree, shall be allowed to operate within the dominion of another nation, depends upon what our greatest jurists have been content to call 'the comity of nations.'"

This inherent power was recognized in Minnesota in Traders' Trust Co. v. Davidson, 146 Minn. 224, 227, 178 N.W. 735, 736 (1920) (citing Hilton, 159 U.S. at 227) where the court said: "Effect is given to foreign judgments as a matter of comity and reciprocity, and it has become the rule to give no other or greater effect to the judgment of a foreign court than the country or state whose court rendered it gives to a like judgment of our courts." In Nicol v. Tanner, 310 Minn. 68, 75–79, 256 N.W.2d 796, 800–02 (1976) (citing the Restatement (Second) of Conflicts of Laws section 98 (1971)), the court further developed the doctrine of comity when it held that the statement in Traders' Trust Co. that enforcement required a

showing of reciprocity was dictum; that "reciprocity is not a prerequisite to enforcement of a foreign judgment in Minnesota;" and that the default status of a foreign judgment "should not affect the force of the judgment."

Statutory Mandates. *Rule 10.01 reflects the normal presumption that courts will adhere to statutory mandates for enforcement of specific tribal court orders or judgments where such a statutory mandate applies. Federal statutes that do provide such mandates include:*

1. Violence Against Women Act of 2000, 18 U.S.C. section 2265 (2003) (full faith and credit for certain protection orders).

2. Indian Child Welfare Act, 25 U.S.C. section 1911(d) (2003) ("full faith and credit" for certain custody determinations).

3. Full Faith and Credit for Child Support Orders Act, 28 U.S.C. section 1738B(a) (2003) ("shall enforce" certain child support orders and "shall not seek or make modifications...except in accordance with [certain limitations]").

In addition to federal law, the Minnesota Legislature has addressed custody, support, child placement, and orders for protection. The Minnesota Legislature adopted the Uniform Child Custody Jurisdiction and Enforcement Act, MINN. STAT sections 518D.101–518D.317 (2002) which: (1) requires recognition and enforcement of certain child custody determinations made by a tribe "under factual circumstances in substantial conformity with the jurisdictional standards of" the Act; and (2) establishes a voluntary registration process for custody determinations with a 20–day period for contesting validity. MINN. STAT. sections 518D.103; 104 (2002) (not applicable to adoption or emergency medical care of child; not applicable to extent ICWA controls). In addition, the Minnesota Legislature has adopted the Uniform Interstate Family Support Act, MINN. STAT. sections 518C.101–518C.902 (2002), which provides the procedures for enforcement of support orders from another state ["state" is defined to include an Indian tribe, MINN. STAT. section 518C.101(s)(1) (2002)] with or without registration, and enforcement and modification after registration. The Minnesota Legislature has also adopted the Minnesota Indian Family Preservation Act, MINN. STAT. sections 260.751–260.835 (2002), which provides, among other things, that tribal court orders concerning child placement (adoptive and pre–adoptive placement, involuntary foster care placement, termination of parental rights, and status offense placements) shall have the same force and effect as orders of a court of this state. MINN. STAT. section 260.771, subd. 4 (2002). In 2006 the Minnesota Legislature adopted MINN. STAT. section 518B.01, subd. 19a, which requires enforcement of certain foreign or tribal court orders for protection.

The facial validity provision in Rule 10.01(b)(2) fills in a gap in state law. MINN. STAT. section 518B.01, subd. 14(e) (2002), authorizes an arrest based on probable cause of violation of tribal court order for protection; although this law includes immunity from civil suit for a peace officer acting in good faith and exercising due care, it does not address facial validity of the order. Similar laws in other jurisdictions address this issue. See, e.g., 720 ILL. COMP. STAT 5/12–30(a)(2) (Supp. 2003); OKLA. STAT. tit. 22 section 60.9B(1) (2003); WISC. STAT. section 813.128(1) (2001–02).

The Minnesota Legislature has also addressed enforcement of foreign money judgments. The Minnesota Uniform Foreign Country Money–Judgments Recognition Act, MINN. STAT. section 548.35 (2002), creates a procedure for filing and enforcing judgments rendered by courts other than those of sister states. Tribal court money judgments fall within the literal scope of this statute and the statutory procedures therefore may guide Minnesota courts considering money judgments. Cf. Anderson v. Engelke, 954 P.2d 1106, 1110–11 (Mont. 1998) (dictum) (statute assumed to allow enforcement by state courts outside of tribal lands, but question not decided). In general, money judgments of tribal courts are not entitled to full faith and credit under the Constitution, and the court is allowed a more expansive and discretionary role in deciding what effect they have. Rule 10.02(a) is intended to facilitate that process.

Discretionary Enforcement: Comity. *Where no statutory mandate expressly applies, tribal court orders and judgments are subject to the doctrine of comity. Rule 10.02(a) does not create any new or additional powers but only begins to describe in one convenient place the principles that apply to recognition of orders and judgments by comity.*

Comity is also an inherently flexible doctrine. A court asked to decide whether to recognize a foreign order can consider whatever aspects of the foreign court proceedings it deems relevant. Thus Rule 10.02(a) does not dictate a single standard for determining the effect of these adjudications in state court. Instead, it identifies some of the factors a Minnesota judge may consider in determining what effect such a determination will be given. Rule 10.02(a) does not attempt to define all of the factors that may be appropriate for consideration by a court charged with determining whether a tribal court determination should be enforced. It does enumerate many of the appropriate factors. It is possible in any given case that one or more of these factors will not apply. For example, reciprocity is not a pre–condition to enforceability generally, Nicol, 310 Minn. at 75–79, 256 N.W.2d at 800–02, but may be relevant in some circumstances. Notice of the proceedings and an opportunity to be heard (or the prospect of notice and right to hearing in the case of ex parte matters) are fundamental parts of procedural fairness in state and federal courts and are considered basic elements of due process; it is appropriate at least to consider whether the tribal court proceedings extended these rights to the litigants. The issue of whether the tribal court is "of record" may be important to the determination of what the proceedings were in that court. A useful definition of "of record" is contained in the Wisconsin statutes. WIS. STAT. section 806.245(1)(c) (2001–02); see also WIS. STAT. section 806.245(3) (2001–02) (setting forth requirements for determining whether a court is "of record"). The rule permits the court to inquire into whether the tribal court proceedings offered similar protections to the parties, recognizing that tribal courts may not be required to adhere to the requirements of due process under the federal and state constitutions. Some of the considerations of the rule are drawn from the requirements of the Minnesota Uniform Enforcement of Foreign Judgments Act, MINN. STAT. sections 548.26–.33 (2002). For example, contravention of the state's public policy is a specific factor for non–recognition of a foreign state's judgment under MINN. STAT. section 548.35, subd. 4(b)(3) (2002); it is carried forward into Rule 10.02(a)(7). Inconsistency with state public policy is a factor for non–recognition of tribal court orders under other states' rules. See MICH. R. Civ. P. 2.615(C)(2)(c); N.D. R. CT. 7.2(b)(4).

Hearing. *Rule 10.02(b) does not require that a hearing be held on the issues relating to consideration of the effect to be given to a tribal court order or judgment. In some instances, a hearing would serve no useful purpose or would be unnecessary; in others, an evidentiary hearing might be required to resolve contested questions of fact where affidavit or documentary evidence is insufficient. The committee believes the discretion to decide when an evidentiary hearing is held should rest with the trial judge.*

(Added effective January 1, 2004; amended effective January 1, 2007.)

Rule 11. Submission of Confidential Information

Revisor's Note: By order of the Supreme Court, dated May 6, 2005, Rule 11 applies to pleadings and other documents submitted to, or judgments, orders, decisions, and notices issued by the court on or after July 1, 2005.

Rule 11.01 Definitions

The following definitions apply for the purposes of this rule:

(a) "Restricted identifiers" shall mean the social security number, employer identification number, and financial account numbers of a party or other person.

(b) "Financial source documents" means income tax returns, W–2 forms and schedules, wage stubs, credit card statements, financial institution statements, check registers, and other financial information deemed financial source documents by court order.

(Amended effective July 1, 2007.)

[For text of 11.02, see M.S. 2006, Volume 15]

Rule 11.03 Sealing Financial Source Documents

Financial source documents shall be submitted to the court under a cover sheet designated "Sealed Financial Source Documents" and substantially in the form set forth as Form 11.2 appended to these rules. 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. Financial source documents that are not submitted with the required cover sheet and that contain restricted identifiers are accessible to the public, but the court may, upon motion or on its own initiative, order that any such financial source document be sealed.

(Amended effective July 1, 2007.)

Advisory Committee Comment – 2007 Adoption

The 2007 amendment to Rule 11.01(a) expands the rule to protect the restricted identifiers of all persons, not just a party and a party's child. Records submitted to the court may include restricted identifiers of persons other than a party or the party's child, such as clients or other fiduciaries.

The 2007 amendment to Rule 11.03 recognizes that if a sealed financial source document is formally offered and admitted into evidence in a testimonial hearing or trial the document will be accessible to the public to the extent that it has been admitted. This is the result under WASH. GR 22 (2006) upon which this rule is based. In such situations, it is strongly recommended that restricted identifiers be redacted from the document before its admission into evidence.

(Added effective July 1, 2007.)

[For text of 11.04 and 11.05, see M.S. 2006, Volume 15]

APPENDIX OF FORMS

FORM 5 MOTION FOR ADMISSION PRO HAC VICE

FORM 5 Motion for Admission Pro Hac Vice

State of Minnesota **District Court**

County	Judicial District: ______ Court File Number: ______ Case Type:

STATE OF MINNESOTA)
) ss.
COUNTY OF ____________)

______________________________,
Plaintiff

vs.

Motion for Admission of
____
Pro Hac Vice

______________________________,
Defendant.

______________________, being sworn/affirmed under oath, states:

I, ____________________, an active member in good standing of the bar of the State of Minnesota, move that this Court admit pro hac vice ________________, an attorney admitted to practice in the trial courts of ____________________, but not admitted to the bar of this Court, who will be counsel for the ( ) Plaintiff ( ) Defendant in this case. I am aware that Rule 5 of the Minnesota General Rules of Practice requires me to (1) sign all pleadings in this case, (2) be present in person or by telephone at the proceeding at which this Motion is heard, and (3) be present in person or by telephone at all subsequent proceedings in this case unless the Court, in its discretion, conducts the proceedings without the presence of Minnesota counsel.

Dated: __________, 20__. Signature:

____
MN Attorney License Number:
Law Firm Name & Address:
Telephone: ( )

Affidavit of Proposed Admittee

STATE OF MINNESOTA)

) ss.
COUNTY OF ____________)

____________________, being duly sworn, states the following under oath:
I am currently admitted to practice and in good standing in the trial courts of the following jurisdiction(s), but not admitted to the bar of this Court:

State	License #	Status	Admission Date

I understand that if this Court grants me admission pro hac vice, Rule 5 of the Minnesota General Rules of Practice requires the Minnesota lawyer bringing this Motion to (1) sign all pleadings in this case, (2) be present in person or by telephone at the proceeding at which this Motion is heard, and (3) be present in person or by telephone at all subsequent proceedings in this case unless the Court, in its discretion, conducts the proceedings without the presence of Minnesota counsel.

I also understand that Rule 5 of the Minnesota General Rules of Practice specifies that by appearing pursuant to that rule I am subject to the disciplinary rules and regulations governing Minnesota lawyers and that by applying to appear or appearing in any action I am subject to the jurisdiction of the Minnesota courts.

Dated: __________, 20__.

Signature:

____
Attorney License Number:
Law Firm Name & Address:
Telephone: ( )

Subscribed and sworn to before me this
____ day of ______________, 20__.

____

ORDER

The foregoing Motion is hereby GRANTED.

Dated: _________, 20__.

Dated: ________, 20__.

____
Judge of District Court

For the Court:

______________________,
Court Administrator

Note: The original of this form must be filed with Court Administrator before you will receive notices generated in this action.

(Added effective January 1, 2007.)

Advisory Committee Comments – 2007 Amendment

Form 5.1 is a new form recommended to facilitate compliance with Rule 5 on the admission of out–of–state lawyers pro hac vice. Neither the rule nor the adoption of this form limits the discretion of trial judges to determine whether to permit pro hac vice admission and to define the terms upon which a trial court may permit or refuse appearance by out–of–state lawyers. Courts may also require verification of a lawyer's good standing in the bar of another court, either by verification on a public Web site or by requiring a certificate of good standing.
(Added effective January 1, 2007.)

[For text of Forms 11.1 and 11.2, see M.S. 2006, Volume 15]

TITLE II – RULES GOVERNING CIVIL ACTIONS

PART A – PLEADINGS, PARTIES, AND LAWYERS

[For text of Rules 101 to 107, see M.S. 2006, Volume 15]

Rule 108. Guardian Ad Litem

[For text of 108.01, see M.S. 2006, Volume 15]

Rule 108.02 [Deleted effective January 1, 2007.]

Rule 108.02 Guardian Ad Litem Not Lawyer for Any Party

The guardian ad litem shall not be a lawyer for any party to the action.

Cross Reference: Minn. R. Civ. P. 17.

(Renumbered and amended effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; renumbered from Rule 108.03 effective January 1, 2007.)

Rule 108.03 [Renumbered Rule 108.02 effective January 1, 2007.]

[For text of Rules 109 to 110.09, see M.S. 2006, Volume 15]

PART B – SCHEDULING

[For text of Rules 111 to Code of Ethics, see M.S. 2006, Volume 15]

RULE 114 APPENDIX

CODE OF ETHICS ENFORCEMENT PROCEDURE

Effective August 31, 2000

[For text of I, see M.S. 2006, Volume 15]

II. Procedure

A. A complaint must be in writing, signed by the complainant, and mailed or delivered to the ADR Review Board at 25 Rev. Dr. Martin Luther King Jr. Blvd., Suite 120, Saint Paul, MN 55155–1500. The complaint shall identify the neutral and make a short and plain statement of the conduct forming the basis of the complaint.

B. The Board shall review the complaint to determine whether the allegations(s), if true, constitute a violation of the Code of Ethics.

C. If the allegations(s) of the complaint do not constitute a violation of the Code of Ethics, the complaint shall be dismissed and the complainant and the neutral shall be notified in writing.

D. If the Board concludes that the allegations of the complaint, if true, constitute a violation of the Code of Ethics, the Board will undertake such review, investigation, and action it deems appropriate. In all such cases, the Board shall send to the neutral, by certified mail, a copy of the complaint, a list identifying the ethical rules which may have been violated, and a request for a written response to the allegations and to any specific questions posed by the Board. It shall not be considered a violation of Rule 114.08(e) of the Minnesota General Rules of Practice or of Rule IV of the Code of Ethics, Rule 114 Appendix, for the neutral to disclose notes, records, or recollections of the ADR process complained of as part of the complaint procedure. Except for good cause shown, if the neutral fails to respond to the complaint in writing within thirty (30) days, the allegations(s) shall be deemed admitted.

E. The Board, at its discretion, may refer the complainant and neutral to mediation conducted by a volunteer qualified neutral to resolve the issues raised by the complainant. Mediation shall proceed only if both the complainant and neutral consent. If the complaint is resolved through mediation, the Board shall dismiss the complaint, unless the resolution includes sanctions to be imposed by the Board. If no agreement is reached in mediation, the Board shall determine whether to proceed further.

F. After review and investigation, the Board shall advise the complainant and neutral of the Board's action in writing by certified mail sent to their respective last known addresses. If the neutral does not file a request for an appeal hearing as prescribed in section G, the Board's decision becomes final.

G. The neutral shall be entitled to appeal the proposed sanctions and findings of the Board to the ADR Ethics Panel by written request within fourteen days from receipt of the Board's action on the complaint. The Panel shall be appointed by the Judicial Council and shall be composed of two sitting or retired district court judges and one qualified neutral in good standing on the Rule 114 roster. Members of the Panel shall serve for a period to be determined by the Judicial Council. One member of the Panel shall be designated as the presiding member.

(1) **Discovery.** Within 30 days after receipt of a request for an appeal hearing, counsel for the Board and the neutral shall exchange the names and addresses of all persons known to have knowledge of the relevant facts. The presiding member of the Panel shall set a date for the exchange of the names and addresses of all witnesses the parties intend to call at the hearing. The Panel may issue subpoenas for the attendance of witnesses and production of documents or other evidentiary material. Counsel for the Board and the neutral shall exchange non–privileged evidence relevant to the alleged ethical violation(s), documents to be presented at the hearing, and witness statements and summaries of interviews with witnesses who will be called at the hearing. Both the Board and the neutral have a continuing duty to supplement information required to be exchanged under this rule. All discovery must be completed within 10 days of the scheduled appeal hearing.

(2) **Procedure.** The neutral has the right to be represented by an attorney at all parts of the proceedings. In the hearing, all testimony shall be under oath. The Panel shall receive such evidence as the Panel deems necessary to understand and determine the issues. The Minnesota Rules of Evidence shall apply, however, relevancy shall be liberally construed in favor of admission. Counsel for the Board shall present the matter to the Panel. The Board has the burden of proving the facts justifying action by clear and convincing evidence. The neutral shall be permitted to adduce evidence and produce and cross–examine witnesses, subject to the Minnesota Rules of Evidence. Every formal hearing conducted under this rule shall be recorded electronically by staff for the Panel. The Panel shall deliberate upon the close of evidence and shall present written Findings and Memorandum with regard to any ethical violations and sanction resulting there from. The Panel shall serve and file the written decision on the Board, neutral and complainant within forty–five days of the hearing. The decision of the Panel is final.
(Amended effective January 1, 2005; amended effective January 1, 2007.)

III. Sanctions

A. The Board may impose sanctions, including but not limited to:

(1) Issue a private reprimand.

(2) Designate the corrective action necessary for the neutral to remain on the roster.

(3) Notify the appointing court and any professional licensing authority with which the neutral is affiliated of the complaint and its disposition.

(4) Publish the neutral's name, a summary of the violation, and any sanctions imposed.

(5) Remove the neutral from the roster of qualified neutrals, and set conditions for reinstatement if appropriate.

B. Sanctions shall only be imposed if supported by clear and convincing evidence. Conduct considered in previous or concurrent ethical complaints against the neutral is inadmissible, except to show a pattern of related conduct the cumulative effect of which constitutes an ethical violation.

C. Sanctions against an organization may be imposed for its ethical violation and its member's violation if the member is acting within the rules and directives of the organization.
(Amended effective January 1, 2005; amended effective January 1, 2007.)

IV. Confidentiality

A. Unless and until final sanctions are imposed, all files, records, and proceedings of the Board that relate to or arise out of any complaint shall be confidential, except:

(1) As between Board members and staff;

(2) Upon request of the neutral, the file maintained by the Board, excluding its work product, shall be provided to the neutral;

(3) As otherwise required or permitted by rule or statute; and

(4) To the extent that the neutral waives confidentiality.

B. If final sanctions are imposed against any neutral pursuant to Section III A (2) – (5), the sanction and the grounds for the sanction shall be of public record, and the Board file shall remain confidential.

C. Nothing in this rule shall be construed to require the disclosure of the mental processes or communications of the Board or staff.

D. Accessibility to records maintained by district court administrators relating to complaints or sanctions about parenting time expeditors shall be consistent with this rule.
(Amended effective January 1, 2007; amended effective July 1, 2007.)

Advisory Committee Comment – 2007

The 2007 addition of Rule IV.D. is designed to make the treatment of complaint and sanction information consistent in the hands of both the statewide ADR Review Board, which

has jurisdiction over any expeditor appointed by the court regardless of whether that expeditor is listed on the statewide ADR neutral rosters (MINN. GEN. R. PRAC. 114.05(b)), and the local court administrator who is required by law to maintain a local roster of parenting time expeditors. MINN. STAT., section 518.1751, subds. 2b, 2c (2006). Although statutes address public access to records of the expeditors and their process, they do not address public access to complaints or sanctions about rostered expeditors.
(Added effective July 1, 2007.)

[For text of V to Part E, see M.S. 2006, Volume 15]

PART F – SPECIAL PROCEDURES

[For text of Rules 135 to 144.05, see M.S. 2006, Volume 15]

Rule 144.06 Validity and Timeliness of Action

The failure to name the next of kin in a petition required by Rule 144.01 or the failure to notify or obtain a waiver from the next of kin shall have no effect on the validity or timeliness of an action commenced by the trustee.
(Added effective January 1, 2000.)

Advisory Committee Comment – 2007 Amendment

This rule is derived from Rule 2 of the Code of Rules for the District Courts. The Task Force has amended the rule to refer to "next of kin" rather than "heirs." Minnesota Statutes, section 573.02 makes no requirements as to who must receive notification of petitions for appointment of trustees or for orders for distribution. Amendments to Rule 144.01, 144.02, and 144.05 codify the longstanding practice of requiring petitioners to name and notify only the decedent's surviving spouse and close relatives, not "all next of kin," which under Wynkoop v. Carpenter, 574 N.W.2d 422 (Minn. 1998), and recent changes to Minnesota's intestacy statute would include distant relatives such as nieces, nephews, aunts, uncles, and cousins. These amendments address only the matter of notification and are not intended to reduce substantive rights of any next of kin.

The Task Force considered the advisability of amending Rule 144.05 to require the court to consider and either approve, modify, or disapprove the settlement itself, in addition to the disposition of proceeds as required under the existing rule. Although it appears that good reasons exist to change the rule in this manner, the Minnesota Supreme Court has indicated that the trial court has no jurisdiction to approve or disapprove the settlement amounts agreed upon by the parties. The court can only approve the distribution of those funds among the heirs and next of kin. See Minneapolis Star & Tribune Co. v. Schumacher, 392 N.W.2d 197, 200 n. 1 (Minn. 1986).

The final sentence of Rule 144.01 was added in 1992 to make it clear that it is the filing of papers in the actual wrongful death action, and not papers relating to appointment of a trustee to bring the action, that triggers the scheduling requirements of the rules, including the requirement to file a certificate of representation and parties (Rule 104) and an informational statement (Rule 111.02). Some have interpreted this comment to mean that the advisory committee intended there to be two separate actions for purposes of computing filing fees. Although a filing fee must be paid when the petition for appointment of a trustee is filed, a second filing fee should not be required in the wrongful death action, even when that wrongful death action is commenced in a different county or district.

Rule 144.06 codifies existing law holding that failure to notify some next of kin does not void an appointment. See Stroud v. Hennepin County Medical Center, 544 N.W.2d 42, 48–49 (Minn. App. 1996) (failure to list and obtain signatures of all next of kin did not invalidate trustee's appointment and commencement of a wrongful death action), rev'd on other grounds, 556 N.W.2d 552, 553–55, nn. 3 & 5 (Minn. 1996) (trustee's original complaint effectively commenced wrongful death action despite her improper appointment).
(Amended effective January 1, 1993; amended effective January 1, 2000; amended effective January 1, 2007.)

[For text of Rule 145 to Title III, see M.S. 2006, Volume 15]

TITLE IV – RULES OF FAMILY COURT PROCEDURE

PART A—PROCEEDINGS, MOTIONS, AND ORDERS

[For text of Rule 301, see M.S. 2006, Volume 15]

Rule 302. Commencement; Continuance; Time; Parties

Rule 302.01 Commencement of Proceedings

(a) Service. Marriage dissolution, legal separation and annulment proceedings shall be commenced by service of a summons and petition upon the person of the other party, by alternate means authorized by statute, or by publication pursuant to court order. Service in other family court proceedings shall be governed by the rules of civil procedure.

(b) Joint Petition.

(1) No summons shall be required if a joint petition is filed. Proceedings shall be deemed commenced when both parties have signed the verified petition.

(2) Where the parties to a proceeding agree on all property issues, have no children together, the wife is not pregnant, and the wife has not given birth since the date of the marriage to a child who is not a child of the husband, the parties may proceed using a joint petition, agreement, and judgment and decree for marriage dissolution without children. Form 12 appended to these rules is a sufficient form for this purpose.

(3) Upon filing of the "Joint Petition, Agreement and Judgment and Decree," and Form 11.1 appended to Title I of these rules, and a Notice to the Public Authority if required by Minn. Stat. section 518.551, subd. 5, the court administrator shall place the matter on the default calendar for approval without hearing pursuant to Minn. Stat. section 518.13, subd. 5. A Certificate of Representation and Parties and documents required by Rules 306.01 and 306.02 shall not be required if the "Joint Petition, Agreement and Judgment and Decree" provided in Form 12 is used.

(4) Court Administrators in each Judicial District shall make the "Joint Petition, Agreement and Judgment and Decree for Marriage Dissolution Without Children" available to the public at a reasonable cost, as a fill–in–the–blank form.

(c) Service by Alternate Means or Publication. Service of the summons and petition may be made by alternate means as authorized by statute. Service of the summons and petition may be made by publication only upon an order of the court. If the respondent subsequently is located and has not been served personally or by alternate means, personal service shall be made before the final hearing.

(Amended effective January 1, 2004; amended effective January 1, 2006.)

Advisory Committee Comments – 2007 Amendment

Although Rule 302 is not amended, the amendment made to Rule 308.04 creates a procedure similar to that in Rule 302.01(b)(2). The Rule 302 procedure is available only in limited circumstances to allow for a completely streamlined procedure – use of a joint petition, agreement and judgment and decree of marriage dissolution without children. The Rule 308 procedure is a more limited streamlined procedure, although it is available in any case, but it does not obviate service of a petition (or use of a separate joint petition). That procedure simply allows the parties to combine the marital termination agreement and judgment and decree into a single document. The decision to use the procedure established in Rule 308.04 may be made at any time, while the procedure in Rule 302.01(b) is, by its nature, limited to a decision prior to commencement of the proceedings.

(Added effective January 1, 2007.)

[For text of 302.02 to Rule 307, see M.S. 2006, Volume 15]

Rule 308. Final Decree

[For text of 308.01 to 308.03, see M.S. 2006, Volume 15]

Rule 308.04 Joint Marital Agreement and Decree

The parties to any proceeding may use a combined agreement and judgment and decree for marriage dissolution. A judgment and decree which is subscribed to be each party before a notary public and contains a final conclusion of law with words to the effect that "the parties agree that the foregoing Findings of Fact and Conclusions of Law incorporate the complete and full Marital Termination Agreement" shall, upon approval and entry by the court, constitute an agreement and judgment and decree for marriage dissolution for all purposes.
(Added effective January 1, 2007.)

Advisory Committee Comments – 2007 Amendment

Rule 308.04 is new. The rule allows parties in any marriage dissolution proceeding, whether commenced by petition or joint petition, to use a combined marital termination agreement and judgment and decree. The primary benefit of this procedure is to reduce the risk of discrepancy between the terms of a marital termination agreement and the judgment and decree it purports to authorize. This procedure should benefit both the parties and the court in streamlining the court procedure where the parties are in agreement. The rule permits the parties to use this procedure by agreement, but does not require its use.

The procedure in Rule 308.04 is similar to the procedure for use of combined Joint Petition, Agreement and Judgment and Decree under Rule 302.01(b)(2), but is available in all cases where the parties agree on all issues (the Rule 302 procedure may be used only in cases not involving children).

The use of this procedure will result in the marital termination agreement becoming an integral part of the judgment and decree, which will render it a public record. To the extent the parties' agreement contains confidential information, they should consider alternative methods of protecting that information, such as use of separate documents as provided for in Rule 308.03 so the agreement is not filed or the use of the confidentiality protection procedures contained in Minn. Gen. R. Prac. 11.
(Added effective January 1, 2007.)

[For text of Rules 309 to 313, see M.S. 2006, Volume 15]

PART B—EXPEDITED CHILD SUPPORT PROCESS
Effective July 1, 2001

I. GENERAL RULES

[For text of Rules 351 to 356, see M.S. 2006, Volume 15]

RULE 357. LEGAL REPRESENTATION AND APPOINTMENT OF GUARDIAN AD LITEM

[For text of 357.01 to 357.03, see M.S. 2006, Volume 15]

Rule 357.04. Appointment of Guardian Ad Litem

A child support magistrate may appoint a guardian ad litem for a child or minor parent who is a party in any proceeding commenced in the expedited child support process solely for purposes of having the guardian ad litem serve as a representative of that person as authorized under Rule 17.02 of the Minnesota Rules of Civil Procedure. The appointment shall be made pursuant to Rule 17.02 of the Minnesota Rules of Civil Procedure.

(Amended effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

[For text of Rules 358 to 379, see M.S. 2006, Volume 15]

APPENDIX OF FORMS

[For text of Forms 1 and 2, see M.S. 2006, Volume 15]

FORM 3
APPENDIX A

NOTICE IS HEREBY GIVEN TO THE PARTIES:

I. PAYMENTS TO PUBLIC AGENCY. According to Minnesota Statutes, section 518A.50, payments ordered for maintenance and support must be paid to the Minnesota child support payment center as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. Parents mail payments to: P.O. Box 64326, St. Paul, MN 55164–0326. Employers mail payments to: P.O. Box 64306, St. Paul, MN 55164.

II. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS – A FELONY. A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or parenting time rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any court administrator.

III. NONSUPPORT OF A SPOUSE OR CHILD – CRIMINAL PENALTIES. A person who fails to pay court–ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

IV. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME.

A. Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

B. Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

C. Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

D. The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

E. A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

F. Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

G. A *Parental Guide to Making Child–Focused Parenting–Time Decisions* is available from any court administrator.

H. The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the department of revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.

I. The public authority may suspend or resume collection of the amount allocated for child care expenses if the conditions of Minnesota Statutes, section 518A.40, subdivision 4, are met.

J. The public authority may remove or resume a medical support offset if the conditions of section 518A.41, subdivision 16, are met.

V. MODIFYING CHILD SUPPORT. If either the obligor or obligee is laid off from employment or receives a pay reduction, child support may be modified, increased, or de-

creased. Any modification will only take effect when it is ordered by the court, and will only relate back to the time that a motion is filed. Either the obligor or obligee may file a motion to modify child support, and may request the public agency for help. UNTIL A MOTION IS FILED, THE CHILD SUPPORT OBLIGATION WILL CONTINUE AT THE CURRENT LEVEL. THE COURT IS NOT PERMITTED TO REDUCE SUPPORT RETROACTIVELY.

VI. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3. UNLESS OTHERWISE PROVIDED BY THE COURT:

A. Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

B. Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

C. In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

D. Each party has the right of reasonable access and telephone contact with the minor children.

VII. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE. Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, section 518A.53, have been met. A copy of that section is available from any court administrator.

VIII. CHANGE OF ADDRESS OR RESIDENCE. Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: residential and mailing address, telephone number, driver's license number, social security number, and name, address, and telephone number of the employer.

IX. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE. Basic support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using the U.S. Department of Labor, Bureau of Labor Statistics, consumer price index Mpls. St. Paul, for all urban consumers (CPI–U), unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518A.75, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518A.75, and forms necessary to request or contest a cost of living increase are available from any court administrator.

X. JUDGMENTS FOR UNPAID SUPPORT; INTEREST. ACCORDING TO MINNESOTA STATUTES, SECTION 548.091:

A. If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment **without notice** to the person responsible to make the payment.

B. Interest begins accruing on a payment or installment of child support whenever the unpaid amount due is greater than the current support due.

XI. JUDGMENTS FOR UNPAID MAINTENANCE. A judgment for unpaid spousal maintenance may be entered and docketed when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any court administrator.

XII. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT. A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support

when the conditions of Minnesota Statutes, section 518A.735, are met. A copy of that section and forms necessary to request or contest these attorney fees and collection costs are available from any court administrator.

XIII. PARENTING TIME EXPEDITER PROCESS. On request of either party or on its own motion, the court may appoint a parenting time expediter to resolve parenting time disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any court administrator.

XIV. PARENTING TIME REMEDIES AND PENALTIES. remedies and penalties for wrongful denial of parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory parenting time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any court administrator.

(Amended effective August 1, 1993; amended effective January 1, 1994; amended effective July 1, 1994; amended effective August 1, 1996; amended effective July 2, 1997; amended effective August 5, 1997; amended effective August 6, 1999; amended effective September 8, 2000; amended effective December 28, 2000; amended effective August 8, 2001; amended effective August 1, 2007.)

[For text of Forms 4A to 6A, see M.S. 2006, Volume 15]

FORM 6B. ORDER FOR IMMEDIATE INCOME WITHHOLDING

State of Minnesota | **District Court**
COUNTY | JUDICIAL DISTRICT | CASE NO.

______________________ ______________________________

In Re The Marriage Of:

____
Petitioner

and

____
Respondent

ORDER FOR IMMEDIATE INCOME WITHHOLDING

WHEREAS, income withholding does not indicate any wrongdoing on the part of __________, referred to herein as the Obligor, but is required by Minnesota law to assure the regular and timely payment of support and maintenance obligations; and

WHEREAS, Obligor's date of birth, social security number, and name and location of Obligor's employer or other payor of funds are:

DOB:__________________ SSN:_(see attached form 11.1)_

Employer/Payor of Funds: ____________________________
____
____

NOW, THEREFORE, pursuant to the provisions of Minnesota Statutes, sections 518.611 and 518.613, copies of which are attached, and the hearing on ________ and/or the order dated ________, IT IS HEREBY ORDERED:

1. That the sum of $________ per ________ representing child support and/or spousal maintenance, and $________ per ________ representing payment on child support and/or maintenance arrears in the amount of $________, shall immediately be withheld from the Obligor's income by Obligor's employer or other payor of funds and remitted to: ________________________ in accordance with the provisions of Minnesota Statutes, chapter 518.

2. That an additional amount equal to 20 percent of the amount required to be withheld in paragraph 1 above ($________ per ________) shall be withheld from the income of the Obligor by the employer or other payor of funds until the arrearage is paid in full.

3. Withheld funds must be remitted within ten days of the date the Obligor is paid the remainder of the income, and the remittance information must include the Obligor's name, court file number, and the date the Obligor was paid the remainder of the income.

4. This order is binding on all current and future employers or payors of funds without further order of the court. NO EMPLOYER MAY DISCHARGE, SUSPEND, OR OTHERWISE PENALIZE OR DISCIPLINE AN EMPLOYEE BECAUSE THE EMPLOYER MUST WITHHOLD SUPPORT. When Obligor's employment terminates, the Obligor and the employer or payor of funds must notify the child support agency of the termination.

Dated: ____________ BY THE COURT:

____

Advisory Committee Comments – 2007 Amendment

Form 6B is amended solely to accommodate the protection of confidential information as required by Minn. Gen. R. Prac. 11.

(Added effective January 1, 2007.)

[For text of Forms 7 to 12 and Title V, see M.S. 2006, Volume 15]

TITLE VI—CONCILIATION COURT RULES

Amended by a Supreme Court order dated June 22, 1993,
to govern all conciliation court actions
filed on or after July 1, 1993
With amendments received through August 1, 2007

[For text of Rules 501 to 511, see M.S. 2006, Volume 15]

Rule 512. Trial

(a) Subpoenas. Upon request of a party and payment of the applicable fee, the court administrator shall issue subpoenas for the attendance of witnesses and production of documentary evidence at the trial. Rule 45 of the Minnesota Rules of Civil Procedure to the extent relevant for use of subpoenas for trial applies to subpoenas issued under this rule. A party who is unable to pay the fees for issuance and service of a summons may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01. An attorney who has appeared in an action may, as officer of the court, issue and sign a subpoena on behalf of the court where the action is pending.

(b) Testimony and Exhibits. Subject to part (d) of this rule, the judge shall hear testimony of the parties, their witnesses, and shall consider exhibits offered by the parties. The party offering an exhibit shall mark the party's name on the exhibit in a manner that will not obscure the exhibit. All exhibits will be returned to the parties at the conclusion of the trial unless otherwise ordered by the judge.

(c) Appearances. The parties shall appear in person, unless otherwise authorized by the court, and may be represented by a lawyer admitted to practice law before the courts of this state. A lawyer representing a party in conciliation court may participate in the trial to the extent and in the manner that the judge, in the judge's discretion, deems helpful.

A corporation, partnership, limited liability company, sole proprietorship, or association may be represented in conciliation court by an officer, manager, or partner, or an agent in the case of a condominium, cooperative or townhouse association, or may appoint a natural person who is an employee of the party or a commercial property manager to appear on its behalf or settle a claim in conciliation court. In the case of an officer, employee, commercial property manager, or agent of a condominium, cooperative or townhouse association, an authorized power of attorney, corporate authorization resolution, corporate by–law or other ev-

idence of authority acceptable to the court must be filed with the claim or presented at the trial. The authority shall remain in full force and effect only as long as the case is active in conciliation court.

"Commercial property manager" means a corporation, partnership, or limited liability company or its employees who are hired by the owner of commercial real estate to perform a broad range of administrative duties at the property including tenant relations matters, leasing, repairs, maintenance, the negotiation and resolution of tenant disputes, and related matters. In order to appear in conciliation court, a property manager's employees must possess a real estate license under Minnesota Statutes, section 82.20, and be authorized by the owner of the property to settle all disputes with tenants and others within the jurisdictional limits of conciliation court.

(d) Evidence. The judge shall normally receive only evidence admissible under the rules of evidence, but in the exercise of discretion and in the interests of justice, may receive otherwise inadmissible evidence.

(e) Conciliation; Judgment. The judge may attempt to conciliate disputes and encourage fair settlements among the parties. If at the trial the parties agree on a settlement the judge shall order judgment in accordance with the settlement. If no agreement is reached, the judge shall hear, determine the cause, and order judgment. Written findings of fact or conclusions of law shall not be required.

(f) Failure of Defendant to Appear. If the defendant fails to appear at the trial, after being summoned as provided in these rules, the judge may hear the plaintiff and may:

(1) order judgment in the amount due the plaintiff, including fees, expenses and other items provided by law or by agreement, and where applicable, order return of property to the plaintiff or

(2) otherwise dispose of the matter.

(g) Failure of Plaintiff to Appear, Defendant Present. Should plaintiff fail to appear at the trial, but defendant appears, the judge may hear the defendant and may:

(1) order judgment of dismissal on the merits or order a dismissal without prejudice on the plaintiff's statement of claim, and where applicable, order judgment on defendant's counterclaim in the amount due the defendant, including fees, expenses and other items provided by law or by agreement, and where applicable, order return of property to the defendant, or

(2) otherwise dispose of the matter.

(h) Continuances. On proper showing of good cause, a continuance may be granted by the court on request of either party. The court may require payment of costs, absolute or conditional, not to exceed $50, as a condition of such an order. On proper showing of good cause, requests for continuance that are made at least five days prior to the trial may be granted by the court administrator. Continuances granted by the court administrator shall be limited to one continuance per party.

(Amended effective August 1, 1994; amended effective January 1, 2007.)

Advisory Committee Comments – 2007 Amendment

Rule 512(a) is amended to include express provision for issuance of subpoenas by attorneys admitted to practice before the Court. This provision is adopted verbatim from the parallel provision in the civil rules, Minn. R. Civ. P. 45.01(c), as amended effective Jan. 1, 2006. Although subpoenas may be used for pretrial discovery from non–parties in district court proceedings, conciliation court practice does not allow pretrial discovery, so this use of subpoenas is similarly not authorized by this rule.

The rule is also amended to clarify the cross–references to Minn. R. Civ. P. 45, made necessary by the reorganization and renumbering of Rule 45 effective on Jan. 1, 2006. Rule 45 provides a comprehensive procedure for use of subpoenas that is helpful in conciliation court with one significant exception: because subpoenas are only available in conciliation court for use at trial, and not for pre–trial discovery, the portions of Rule 45 dealing with pre–trial discovery are not applicable in conciliation court.

(Added effective January 1, 2007.)

[For text of Rule 513 to Title VIII, see M.S. 2006, Volume 15]

TITLE IX—JURY MANAGEMENT RULES

[For text of Rules 801 and 802, see M.S. 2006, Volume 15]

Rule 803. Jury Commissioner

(a) A jury commissioner is established in each county to administer the jury system under the supervision and control of the chief judge of the judicial district. The jury commissioner shall be the judicial district administrator or designee. If another person is designated jury commissioner, the other person shall be responsible to the judicial district administrator in the performance of the jury commissioner's tasks.

(b) The jury commissioner shall collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

(1) the inclusiveness of the jury source list and the representativeness of the jury pool;

(2) the effectiveness of qualification and summoning procedures;

(3) the responsiveness of individual citizens to jury duty summonses;

(4) the efficient use of jurors; and

(5) the cost effectiveness of the jury system.

(c) The jury commissioner should seek to secure adequate and suitable facilities for juror use in each court facility in which jury trials are held.
(Amended effective January 1, 2007.)

Advisory Committee Comments – 2007 Amendment

Rule 803(b)(1) is amended to state the jury commissioner's responsibility more precisely. Because a jury commissioner does not have control over the composition of the jury source list, the rule should not impose a duty relating to the source list. It shifts that responsibility, however, to require the jury commissioner assess the representativeness of the jury pool as a whole, not the constituent lists. This amendment is not intended to lessen in any way the representativeness of jury pools.
(Added effective January 1, 2007.)

[For text of Rules 804 to 807, see M.S. 2006, Volume 15]

Rule 808. Qualifications for Jury Service

(a) The jury commissioner shall determine on the basis of information provided on the juror qualification questionnaire, supplemented if necessary, whether the prospective juror is qualified for jury service. This determination shall be entered on the questionnaire or other record designated by the court.

(b) To be qualified to serve as a juror, the prospective juror must be:

(1) A citizen of the United States.

(2) At least 18 years old.

(3) A resident of the county.

(4) Able to communicate in the English language.

(5) Be physically and mentally capable of rendering satisfactory jury service. A person claiming disability may be required to submit a physician's certificate as to the disability, and the Judge may inquire of the certifying physician. A prospective qualified juror who is 70 years of age or older, who requests to be excused from jury service shall be automatically excused from service without having to submit evidence of an inability to serve.

(6) A person who has had their civil rights restored if they have been convicted of a felony.

(7) A person who has not served as a state or federal grand or petit juror in the past four years.

(c) A judge, serving in the judicial branch of the government, is disqualified from jury service.

(Amended effective July 1, 2003; amended effective May 1, 2007.)

Advisory Committee Comments – 2007 Amendment

Rule 808 is amended to change the exemption from repeated jury service from two to four years. This change is made on the recommendation of the Jury Managers Resource Team and reflects that sufficient numbers of jurors can be obtained with a four-year exemption. This change returns the rule to the period used before 2003, when the rule was amended to shorten the period to the current two-year period. The two-year period has resulted in various disproportionate calls to jury service and to complaints from repeatedly summoned jurors.

(Added effective May 1, 2007.)

[For text of Rules 809 to 813, see M.S. 2006, Volume 15]

Rule 814. Records

The names of qualified prospective jurors drawn and the contents of juror qualification questionnaires shall not be disclosed except as provided by this rule or as required by Rule 813.

(a) **Public Access.** The names of the qualified prospective jurors drawn and the contents of juror qualification questionnaires, except identifying information to which access is restricted by court order and social security numbers, completed by those prospective jurors must be made available to the public upon specific request to the court, supported by affidavit setting forth the reasons for the request, unless the court determines:

(1) in a criminal case that access to any such information should be restricted in accordance with Minn. R. Crim. P. 26.02, subd. 2(2); or

(2) in all other cases that in the interest of justice this information should be kept confidential or its use limited in whole or in part.

(b) **Limits on Access by Parties.** The contents of completed juror qualification questionnaires except juror social security numbers must be made available to lawyers upon request in advance of voir dire. The court in a criminal case may restrict access to names, telephone numbers, addresses, and other identifying information of the jurors only as permitted by Minn. R. Crim. P. 26.02, subd. 2(2). In a civil case the court may restrict access to the names, addresses, telephone numbers, and other identifying information of the jurors in the interests of justice.

(c) **Retention.** The jury commissioner shall make sure that all records and lists including any completed juror qualification questionnaires, are preserved for the length of time ordered by the court or set forth in the official retention schedule except that in criminal cases any information provided to counsel for voir dire as authorized by part (b) shall be preserved in the criminal file for at least ten years after judgment is entered.

(Amended effective July 1, 2005; amended effective January 1, 2007.)

Advisory Committee Comments – 2007 Amendment

Rule 814 is amended to delete the apparently absolute right to public access to jury questionnaires one year after the jury list is prepared, contained in Rule 814(d). The provision is replaced by the modified public access right contained in amended Rule 814(a). The procedure applies to the uniform procedure of specific request to the court for access, and essentially simply removes the distinction between requests before and after the one-year anniversary.

(Added effective January 1, 2007.)

TITLE X – MINNESOTA RULES OF GUARDIAN AD LITEM PROCEDURE IN JUVENILE AND FAMILY COURT

Effective January 1, 1999

RULE 901. SCOPE OF RULES; IMPLEMENTATION

Rule 901.01 Scope of Rules

These Rules govern the appointment, responsibilities, and removal of guardians ad litem appointed to advocate for the best interests of the child, minor parent, or incompetent adult in family and juvenile court cases. These Rules do not govern the appointment of a guardian ad litem under Minnesota Rules of Civil Procedure 17.02 in child support and paternity matters. These Rules also do not govern guardians ad litem appointed pursuant to Minnesota Statutes, chapter 253B, and sections 245.487–245.4888, 256B.77, 494.01–494.05, 501B.19, 501B.50, 508.18, 524.1–403, and 540.08.

For purposes of Rules 902 to 907:

(a) The phrase "family court case" refers to the types of proceedings set forth in the Comment to Rule 301 of the Minnesota Rules of Family Court Procedure, including, but not limited to, marriage dissolution, legal separation, and annulment proceedings; child custody enforcement proceedings; domestic abuse and harassment proceedings; support enforcement proceedings; contempt actions in family court; parentage determination proceedings; and other proceedings that may be heard or treated as family court matters.

(b) The phrase "juvenile court case" refers to the child protection matters set forth in Rule 2.01(k) of the Minnesota Rules of Juvenile Protection Procedure, including all of the following matters: child in need of protection or services, neglected and in foster care, termination of parental rights, review of out of home placement, and other matters that may be heard or treated as child protection matters, guardianship and adoption proceedings. The phrase "juvenile court case" also refers to the juvenile delinquency proceedings set forth in Rule 1.01 of the Minnesota Rules of Juvenile Procedure.

(Amended effective January 1, 1999; amended effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

2004 Advisory Committee Comment – 2006 Amendment

The previous Rules of Guardian Ad Litem Procedure also addressed the qualifications, recruitment, screening, training, selection, supervision, and evaluation of guardians ad litem. The administration and oversight of these issues is now the responsibility of the Office of the State Court Administrator. The issues are now included in a Program Standards manual. It is the responsibility of the Office of the State Court Administrator to prepare that manual, with the advice and consent of the Judicial Council. The minimum standards set forth in the previous rules are to be maintained in the manual, together with the procedures governing complaints about the performance of a guardian ad litem. Also to be included in the manual are standards regarding knowledge and appreciation of the prevailing social and cultural standards of the Indian and other minority communities. The manual is to be published in both print and electronic forms and is to be available to the public on the Guardian Ad Litem page of the Judicial Branch Web site: www.mncourts.gov.

(Added effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

[For text of 901.02, see M.S. 2006, Volume 15]

RULE 902. MINIMUM QUALIFICATIONS

Before a person may be recommended for service as a guardian ad litem pursuant to Rule 903, the person must satisfy the minimum qualifications set forth in the Guardian Ad

Litem System Program Standards as established by the Office of the State Court Administrator with the advice and consent of the Judicial Council. The Program Standards shall be published in print and electronic forms and be available to the public.

(Amended effective January 1, 1999; amended effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

2006 Advisory Committee Comment

The Guardian Ad Litem Program Standards are available on the Guardian Ad Litem Program page located on the Supreme Court public Web site: www.mncourts.gov.
(Added effective January 1, 2007.)

RULE 903. APPOINTMENT OF GUARDIAN AD LITEM

[For text of 903.01, see M.S. 2006, Volume 15]

Rule 903.02 Juvenile Court Appointment

Subdivision 1. Generally. A guardian ad litem shall not be appointed or serve except upon written order of the court. The order shall set forth:

(a) the statute or rule providing for the appointment of the guardian ad litem;

(b) the provisions for parental fee collection as applicable under Minnesota Statutes, sections 260B.331, subd. 6(a), and 260C.331, subd. 6(a), and as established by the Judicial Council; and

(c) in an adoption proceeding, authorization for the guardian to review and receive a copy of the adoption study report under Rule 37 of the Rules of Adoption Procedure and the post–placement assessment report under Rule 38 of the Rules of Adoption Procedure to the extent permitted by Minnesota Statutes, section 259.53, subd. 3.

If the court has issued an order appointing a person as a guardian ad litem in a child in need of protection or services proceeding, the court may, but is not required to issue an order reappointing the same person in the termination of parental rights or other permanent placement determination proceeding. An order is required only if a new person is being appointed as guardian ad litem.

Subd. 2. Guardian Ad Litem Shall Not Also Serve on Same Case as Petitioner. When a guardian ad litem is appointed pursuant to Minnesota Statutes, section 260C.163, subd. 5(a), the court shall not appoint as guardian ad litem an individual who is the party, or an agent of the party, who has already filed the initial petition in the case pursuant to Minnesota Statutes, section 260C.141.

Subd. 3. Representation of Child's Parent or Legal Custodian. The court may sua sponte or upon the written or on–the–record request of a party or participant appoint a guardian ad litem for a parent who is a party or the legal custodian if:

(a) the court determines that the parent or legal custodian is incompetent to assist counsel in the matter or understand the nature of the proceedings; or

(b) it appears at any stage of the proceedings that the parent is under eighteen (18) years of age and is without a parent or legal custodian, or that considered in the context of the matter the minor parent's parent or legal custodian is unavailable, incompetent, indifferent to, hostile to, or has interests in conflict with the interests of the minor parent.

Appointment of a guardian ad litem for a parent shall not result in discharge of counsel for the parent.

(Added effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

2006 Advisory Committee Comment

If subd. 2, paragraph (c), in Rule 903.02 is not included in the initial order appointing the guardian ad litem in a juvenile protection matter, and the matter proceeds to adoption, the

succeeding guardian ad litem appointment order in the adoption matter should include paragraph (c).
(Added effective January 1, 2007.)

2006 Advisory Committee Comment

If the minor parent or incompetent adult is unable to admit or deny the petition, the court may choose to appoint a substitute decision maker or legal guardian to admit or deny the petition (subd. 3).
(Added effective January 1, 2007.)

Rule 903.03 Family Court Appointment

A guardian ad litem shall not be appointed or serve except upon written order of the court. The order shall set forth:

(a) the statute or rule providing for the appointment of the guardian ad litem;

(b) the specific duties to be performed by the guardian ad litem in the case;

(c) to the extent appropriate, deadlines for the completion of the duties set forth;

(d) to the extent appropriate, the duration of the appointment; and

(e) the provisions for parental fee collection as applicable under Minnesota Statutes, sections 257.69, subd. 2(a), and 518.165, subd. 3(a), and as established by the Judicial Council.

(Amended effective January 1, 1999; renumbered and amended effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

Rule 903.04 Other Roles Precluded

Subdivision 1. Generally. A guardian ad litem under the supervision of the Office of the State Court Administrator shall not be ordered to, and shall not perform, the following roles in a case in which the person serves as a guardian ad litem;

(a) custody evaluator pursuant to Minnesota Statutes, section 518.167; or

(b) parenting time evaluator; or

(c) parenting time consultant; or

(d) family group decision making facilitator; or

(e) early neutral evaluator; or

(f) mediator, as that role is prescribed in Minnesota Statutes, section 518.619, and Rule 310 of the Minnesota Rules of Family Court Procedure; or

(g) arbitrator or individual authorized to decide disputes between parties; or

(h) parenting time expeditor, as that role is prescribed in Minnesota Statutes, sections 518.619 and 518.1751; or

(i) substitute decision–maker under Minnesota Statutes, section 253B.092; or

(j) evaluator charged with conducting a home study under Minnesota Statutes, sections 245A.035 or 259.41; or

(k) attorney for the child.

Subd. 2. Roles Distinguished. Nothing in this rule shall prevent a properly qualified person who also serves in other cases as a guardian ad litem from serving in any of the roles in subdivision 1 on a privately paid basis. A guardian ad litem under the supervision of the Office of the State Court Administrator is not the same as a mediator, arbitrator, facilitator, custody evaluator, or neutral as those titles and roles are described in Rule 114 of the Minnesota Rules of General Practice for the District Courts.

(Added effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

RULE 904. COMPLAINT PROCEDURE; REMOVAL OR SUSPENSION OF GUARDIAN AD LITEM FROM PARTICULAR CASE

Rule 904.01 Complaint Procedure

Complaints about the performance of a guardian ad litem shall be governed by procedures and policies set forth in the Guardian Ad Litem System Program Standards established by the Office of the State Court Administrator with the advice and consent of the Judicial Council. Unless offered into evidence by the guardian ad litem or authorized by written order following an *in camera* review by the court, the complaints and complaint investigation reports shall not be received as evidence or used in any manner in any proceeding governed by these Rules.

(Amended effective January 1, 1999; renumbered and amended effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

[For text of 904.02, see M.S. 2006, Volume 15]

RULE 905. GENERAL RESPONSIBILITIES OF GUARDIANS AD LITEM

RULE 905.01. Generally

In every family court and juvenile court case as defined in Rule 901.01 in which a guardian ad litem is appointed, the guardian ad litem shall:

(a) conduct an independent investigation to determine the facts relevant to the situation of the child or incompetent adult and the child's parent, legal custodian, or other household or family member, which must include, unless specifically excluded by the court:

(i) reviewing relevant documents, which in the case of an adoption shall include the adoption study report and the post-placement assessment report upon order of the court to the extent permitted by Minnesota Statutes, section 259.53, subdivision 3(b);

(ii) meeting with and observing the child in the home setting and considering the child's or incompetent adult's wishes, as appropriate; and

(iii) interviewing parents, caregivers, and others relevant to the case;

(b) advocate for the best interests of the child or incompetent adult by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(c) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child or incompetent adult;

(d) monitor the best interests of the child or incompetent adult throughout the judicial proceeding; and

(e) present written reports on the best interests of the child or incompetent adult that include conclusions and recommendations, and the facts upon which they are based.

(Renumbered and amended effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

2006 Advisory Committee Comment

The responsibilities of a guardian ad litem are the same for all appointments made under these Rules, regardless of case type.
(Added effective January 1, 2007.)

Rule 905.02. Representation of Child's Parent or Legal Custodian

In every matter where the guardian ad litem is appointed to represent a parent or legal custodian under Rule 903.02, subdivision 3, the guardian ad litem shall perform the following responsibilities:

(a) conduct an investigation to determine the facts relevant to the situation of the minor parent or incompetent adult and the family, which must include, unless specifically excluded by the court:

(i) reviewing relevant documents;

(ii) meeting with and observing the minor parent or incompetent adult in the home setting and considering the minor parent's, or incompetent adult's wishes, as appropriate; and

(iii) interviewing parents, caregivers, and others relevant to the case;

(b) advocate for the minor parent's or incompetent adult's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(c) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the minor parent or incompetent adult;

(d) monitor the minor parent's or incompetent adult's best interests throughout the judicial proceeding; and

(e) present written reports on the minor parent's or incompetent adult's best interests that include conclusions and recommendations and the facts upon which they are based.

(Added and amended effective January 1, 2007.)

[For text of Rule 906, see M.S. 2006, Volume 15]

RULE 907. RIGHTS OF GUARDIANS AD LITEM

Rule 907.01 Rights in Every Case

Subdivision 1. Generally. In every case in which a guardian ad litem is appointed pursuant to Rule 903, the guardian ad litem shall have the rights set forth in clauses (a) to (d).

(a) The guardian ad litem shall have access to the child or incompetent adult including meeting with the child alone as deemed appropriate by the guardian ad litem; and shall have access to all information relevant to the child's or incompetent adult's and family's situation which is accessible under applicable state and federal laws.

(b) The guardian ad litem shall be furnished copies of all pleadings, documents, and reports by the party which served or submitted them. A party submitting, providing, or serving pleadings, documents, or reports shall simultaneously provide copies to the guardian ad litem.

(c) The guardian ad litem shall be notified of all court hearings, administrative reviews, staffings, investigations, dispositions, and other proceedings concerning the case. Timely notice of all court hearings, administrative reviews, staffings, investigations, dispositions, and other proceedings concerning the case shall be provided to the guardian ad litem by the party scheduling the proceeding.

(d) The guardian ad litem shall have the right to participate in all proceedings through submission of written and oral reports, and may initiate and respond to motions.

Subd. 2. Not Unauthorized Practice of Law. The exercise of the rights listed in subdivision 1 by a guardian ad litem shall not constitute the unauthorized practice of law.

(Amended effective January 1, 1999; renumbered and amended effective for guardian ad litems appointed in Minnesota's juvenile and family courts after 12 o'clock midnight January 1, 2005; amended effective January 1, 2007.)

[For text of 907.02 to Rule 913, see M.S. 2006, Volume 15]