

General Rules of Practice for the District Courts

Adopted Effective January 1, 1992

With amendments effective July 1, 2013; and September 16, 2013

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TEXT OF RULES

TITLE I. RULES APPLICABLE TO ALL COURT PROCEEDINGS

Rule 8. Interpreters

[For text of Definitions to 8.12, see M.S. 2012, Volume 15]

Rule 8.13 Requirement for Notice of Anticipated Need for Interpreter

In order to permit the court to make arrangements for the availability of required interpreter services, parties shall, in the Civil Cover Sheet, Initial Case Management Statement or Joint Statement of the Case, and as may otherwise be required by the court rule or order, advise the court of that need in advance of the hearing or trial where services are required.

When it becomes apparent that previously-requested interpreter services will not be required, the parties must advise the court.

(Added effective March 1, 2009; amended effective July 1, 2013.)

Advisory Committee Comment - 2008 Amendment

Making a qualified interpreter available when needed in court often requires difficult prearrangement. Rule 8.13 is a simple rule drawing the attention of litigants to the likelihood they will encounter specific court rules or orders requiring identification of interpreter needs in advance of the need. See amendments to Rules 111.02, 111.03, 112.02, Forms 111.02 & 112.01, and Minnesota Civil Trialbook sections 5 & 11.

The second paragraph of the rule contains an obvious corollary: when it becomes clear that interpreter services will no longer be required, notice must be given to permit the court to avoid the expense that would otherwise be incurred. This notice would be required if a trial or hearing were obviated by settlement, and the requirement of notice is similar to that required by Minn. Gen. R. Prac. 115.10 for the settlement of a motion, which would obviate a hearing and the court's preparation for the hearing.

Rule 14. E-Filing and E-Service**Rule 14.01 Mandatory and Voluntary E-File and E-Service**

(a) **Definitions.** The following terms have the following meanings:

(1) "Designated Provider" means the electronic filing service provider designated by the state court administrator.

(2) "E-Filing System" means the Designated Provider's Internet-accessible electronic filing and service system.

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

(4) "Selected Civil Case Types" means all general civil cases, including examiner of title cases (in the Fourth Judicial District, in addition to Torrens cases this includes 5-week redemptions) except Conciliation Court and Probate/Mental Health case types, and Family Case Types as defined in this rule.

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

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

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

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

(2) Parental notification bypass proceedings under Minnesota Statutes, section 144.343.

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

(e) **Voluntary E-File and E-Serve.** During the pilot project, attorneys, and parties designated by the Fourth Judicial District and Second Judicial District may, upon registering with the Designated Provider, electronically file documents with the court in civil cases designated by the respective judicial district. For other districts, attorneys and parties designated by the State Court Administrator may, upon registering with the Designated Provider, electronically file documents with the court in the locations and civil cases designated by the State Court Administrator. In any designated case in which the designated and registered attorneys or parties have electronically filed a document with the District Court, any other attorney or law firm representing a party in the case and any party designated by the District Court (Second and Fourth Judicial Districts), or the State Court Administrator (all other districts), may also electronically file documents in the case after registering with the Designated Provider. Registered attorneys and parties may also electronically serve documents on other registered attorneys and parties in such cases provided that the attorney or party to be served has designated an e-mail address for receiving electronic service in the E-Filing System after the District Court has accepted the initial filing in the case.

(e) **Relief from Operation of this Rule.**

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

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

(Added effective September 1, 2012; amended effective September 16, 2013.)

[For text of 14.02, see M.S. 2012, Volume 15]

Rule 14.03 Document Format

(a) **Document Types.** Documents filed electronically shall be submitted in searchable PDF format only.

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

- (1) 8-1/2 x 11" size with a portrait orientation.
- (2) No Optical Character Recognition (OCR) data shall be contained in or associated with the document.
- (3) At least 200 dot-per-inch ("DPI") resolution.
- (4) No unintelligible images (e.g., no all-black images).
- (5) Documents may not be secured, password-protected, or have other features limiting access.
- (6) Black and white images (no color images will be retained). Color documents submitted via the E-Filing System are transformed into black and white images.

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

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

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

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

(11) Only standard CCIT image compression is permitted.

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

(c) Document size.

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

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

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

(d) Non-conforming documents. With leave of court, a color document or document containing color may be filed electronically with manual handling or in paper form to be retained by the court in a color format. A motion to file a color document or document containing color to be retained by the court in a color format must be filed and served electronically.

(Added effective September 1, 2012; amended effective September 16, 2013.)

[For text of 14.04 to 14.07, see M.S. 2012, Volume 15]

TITLE II. RULES GOVERNING CIVIL ACTIONS

PART A. PLEADINGS, PARTIES, AND LAWYERS

Rule 104. Civil Cover Sheet and Certificate of Representation and Parties

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

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

(b) If the case is a non-family civil case other than those listed in Rule 111.01, basic information about the case in a Civil Cover Sheet (see Form CIV117 promulgated by the state court administrator and published on the website www.mncourts.gov) which shall also include the information required in part (a) of this rule. Any other party to the action may, within ten days of service of the filing party's civil cover sheet, file a supplemental civil cover sheet to provide additional information about the case.

If that information is not then known to the filing party, it shall be provided to the court administrator in writing by the filing party within seven days of learning it. Any party impleading additional parties shall provide the same information to the court administrator. The court administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers, if represented by counsel, of the date of filing the action and the file number assigned.

(Amended effective January 1, 1993; amended effective January 1, 1996; amended effective July 1, 2013.)

Cross Reference: Minn. R. Civ. P. 5.04.

Advisory Committee Comment - 1995 Amendment

This rule is derived from 7th Dist. R. 7 (eff. Jan. 1, 1990).

The final sentence is derived from 2d Dist. R. 2(b).

This rule formalizes the requirement to provide information about all parties when an action is filed. Its need derives from the commencement of actions by service and the fact that many pleadings are routinely not filed. The certificate of representation and parties serves a purpose of allowing the court to give notice of assignment of a judge to the case (in those districts making that assignment prior to trial), thereby triggering for all parties the 10-day period to remove an assigned judge under Minn. R. Civ. P. 63.

This requirement now exists in the Fourth and Seventh districts, and seems to be the type of requirement the Task Force seeks to make uniform statewide. The required information may be submitted in typed form or on forms available from the court administrator. A sample form is included in the Appendix of Forms as Form 104.

The first clause of the rule is intended to make it clear that where other rules provide specific requirements relating to initiation of an action for scheduling purposes, those rules govern. For example, Minn. Gen. R. Prac. 144.01, as amended in 1992, states that the Certificate of Representation required under this rule is not required in wrongful death actions following the mere filing of a petition for appointment of the trustee, but is required after the action itself is commenced by service of the summons and papers are filed with the court. Rule 141.02, as amended in 1992, similarly provides that filing of a notice of appeal from a commissioner's award triggers the assignment process requirements in condemnation proceedings. In addition to cases exempted by rule, this rule was amended in 1995 to exempt its application to actions that are commenced by filing. In those cases, it is unfair and inappropriate to place additional burdens on the filing process that are not required by statute, and which might result in the rejection of a document for filing. The consequences of rejecting such a document can be dire. Minnesota Statutes, section 514.11. Cf. AAA Electric & Neon Service, Inc. v. R. Design Co., 364 N.W.2d 869 (Minn. App. 1985) (bar by not meeting filing requirement of action in a timely manner). The Advisory Committee believes it is not appropriate to reject such documents for filing in any event, but this rule now makes it clear that a certificate of representation and parties is not required in actions commenced by filing. For the convenience of the parties, frequently encountered examples of actions that are commenced by filing include mechanic's lien actions, quiet title actions, and actions to register title to real property (Torrens actions). This amendment is intended to remove the requirement that a certificate of representation and parties accompany the complaint for filing. It is not intended to prevent courts from obtaining this information, if still needed, after process has been served and the parties' representation known.

PART B. SCHEDULING

Rule 111. Scheduling of Cases

[For text of 111.01, see M.S. 2012, Volume 15]

Rule 111.02 The Party's Scheduling Input

The parties may submit scheduling information to the court as part of the civil cover sheet as provided in Rule 104 of these rules.

(Amended effective July 1, 1994, and shall supersede Second Judicial District Local Rules 5 and 25 and Fourth Judicial District Local Rule 5 to the extent inconsistent therewith; amended effective July 1, 2013.)

Rule 111.03 Scheduling Order

(a) When issued. No sooner than the due date of the last civil cover sheet under Rule 104, and no longer than 90 days after an action has been filed, the court shall enter its scheduling order. The court may issue the order after either a telephone or in-court conference, or without a conference or hearing if none is needed.

(b) Contents. The scheduling order shall provide for alternative dispute resolution as required by Rule 114.04(c) and shall establish a date for the completion of discovery. The order may also establish any of the following:

- (1) Deadlines for joining additional parties, whether by amendment or third-party practice;
- (2) Deadlines for bringing nondispositive or dispositive motions;
- (3) Deadlines or specific dates for submitting particular issues to the court for consideration;
- (4) A deadline for completing any independent physical, mental or blood examination pursuant to Minn. R. Civ. P. 35;
- (5) A date for a formal discovery conference pursuant to Minn. R. Civ. P. 26.06, a pretrial conference or conferences pursuant to Minn. R. Civ. P. 16, or a further scheduling conference.
- (6) Deadlines for filing any pretrial submissions, including proposed instructions, verdicts, or findings of fact, witness lists, exhibits lists, statements of the case or any similar documents;
- (7) Whether the case is a jury trial, or court trial if a jury has been waived by all parties;
- (8) Identification of interpreter services (specifying language and, if known, particular dialect) any party anticipates will be required for any witness or party;
- (9) A date for submission of a Joint Statement of the Case pursuant to Minn. Gen. R. Prac. 112; or
- (10) A trial date.

(Amended effective July 1, 1994, and shall supersede Second Judicial District Local Rules 5 and 25 and Fourth Judicial District Local Rule 5 to the extent inconsistent therewith; amended effective March 1, 2009; amended effective July 1, 2013.)

Advisory Committee Comment - 2008 Amendment

Rules 111.02(l) and 111.03(b)(8) are new provisions, adopted as part of amendments designed to foster earlier gathering of information about the potential need for interpreter services in a case, either for witnesses or for a party. See Minn. Gen. R. Prac. 8.13.

[For text of 111.04 and 111.05, see M.S. 2012, Volume 15]

Rule 113. Assignment of Case(s) to a Single Judge

Rule 113.01 Request for Assignment of a Single Case to a Single Judge

(a) In any case that the court or parties believe is likely to be complex, or where other reasons of efficiency or the interests of justice dictate, the chief judge of the district or the chief judge's designee may order that all pretrial and trial proceedings shall be heard before a single judge. The court may enter such an order at any time on its own initiative, in response to a suggestion in a party's civil cover sheet filed under Rule 104, or on the motion of any party, and shall enter such an order when the requirements of Rule 113.01(b) have been met. The motion shall comply with these rules and shall be supported by affidavit(s). In any case assigned to a single judge pursuant to this Rule that judge shall actively use enhanced judicial management techniques, including, but not limited to, the setting of a firm trial date, establishment of a discovery cut off date, and periodic case conferences.

(b) Grounds. Unless the court finds that court management of the claims and/or issues involved has become routine or that the interests of justice require otherwise, the court shall order that all pretrial and trial proceedings shall be heard before a single judge upon a showing that the action is likely to involve one or more of the following:

- (1) numerous pretrial motions raising difficult or novel legal issues that will be time consuming to resolve;
- (2) management of a large number of witnesses or substantial amount of documentary evidence;
- (3) management of a large number of separately represented parties;
- (4) the opportunity to coordinate with related actions pending in another court;
- (5) substantial post-judgment judicial supervision.

(Added effective July 1, 1994; amended effective March 1, 2001; amended effective July 1, 2013.)

[For text of 113.02 and 113.03, see M.S. 2012, Volume 15]

Rule 114. Alternative Dispute Resolution

[For text of 114.01, see M.S. 2012, Volume 15]

Rule 114.02 Definitions

The following terms shall have the meanings set forth in this rule in construing these rules and applying them to court-affiliated ADR programs.

(a) ADR Processes.

Adjudicative Processes

(1) *Arbitration*. A forum in which a neutral third party renders a specific award after presiding over an adversarial hearing at which each party and its counsel present its position. If the parties stipulate in writing that the arbitration will be binding, then the proceeding will be conducted pursuant to the Uniform Arbitration Act (Minnesota Statutes, sections 572.08 to 572.30). If the parties do not stipulate that the arbitration will be binding, then the award is non-binding and will be conducted pursuant to Rule 114.09.

(2) *Consensual Special Magistrate*. A forum in which the parties present their positions to a neutral in the same manner as a civil lawsuit is presented to a judge. This process is binding and includes the right of appeal to the Minnesota Court of Appeals.

(3) *Summary Jury Trial*. A forum in which each party and their counsel present a summary of their position before a panel of jurors. The number of jurors on the panel is six unless the parties agree otherwise. The panel may issue a non-binding advisory opinion regarding liability, damages, or both.

Evaluative Processes

(4) *Early Neutral Evaluation (ENE)*. A forum in which attorneys present the core of the dispute to a neutral evaluator in the presence of the parties. This occurs after the case is filed but before discovery is conducted. The neutral then gives an assessment of the strengths and weaknesses of the case. If settlement does not result, the neutral helps narrow the dispute and suggests guidelines for managing discovery.

(5) *Non-Binding Advisory Opinion*. A forum in which the parties and their counsel present their position before one or more neutral(s). The neutral(s) then issue(s) a non-binding advisory opinion regarding liability, damages or both.

Investigation and Report Process

(6) *Neutral Fact Finding*. A forum in which a neutral investigates and analyzes a factual dispute and issues findings. The findings are non-binding unless the parties agree to be bound by them.

Facilitative Processes

(7) *Mediation*. A forum in which a neutral third party facilitates communication between parties to promote settlement. A mediator may not impose his or her own judgment on the issues for that of the parties.

Hybrid Processes

(8) *Mini-Trial*. A forum in which each party and their counsel present its position before a selected representative for each party, a neutral third party, or both, to develop a basis for settlement negotiations. A neutral may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding unless the parties agree that it is binding and enter into a written settlement agreement.

(9) *Mediation-Arbitration (Med-Arb)*. A hybrid of mediation and arbitration in which the parties initially mediate their disputes; but if they reach impasse, they arbitrate any deadlocked issues.

(10) *Other*. Parties may by agreement create an ADR process. They shall explain their process in the civil cover sheet.

(b) Neutral. A "neutral" is an individual or organization who provides an ADR process. A "qualified neutral" is an individual or organization included on the State Court Administrator's roster as provided in Rule 114.12. An individual neutral must have completed the training and continuing education requirements provided in Rule 114.13. An organization on the roster must certify that an individual neutral provided by the organization has met the training and continuing education requirements of Rule 114.13. Neutral fact-finders selected by the parties for their expertise need not undergo training nor be on the State Court Administrator's roster.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective August 31, 1998; amended effective January 1, 2005; amended effective July 1, 2013.)

Implementation Committee Comment - 1993

The definitions of ADR processes that were set forth in the 1990 report of the joint Task Force have been used. No special educational background or professional standing (e.g., licensed attorney) is required of neutrals.

Advisory Committee Comment - 1996 Amendment

The amendments to this rule are limited, but important. In subdivision (a)(10) is new, and makes it explicit that parties may create an ADR process other than those enumerated in the rule. This can be either a "standard" process not defined in the rule, or a truly novel process not otherwise defined or used. This rule specifically is necessary where the parties may agree to a binding process that the courts could not otherwise impose on the parties. For example, the parties can agree to "baseball arbitration" where each party makes a best offer which is submitted to an arbitrator who has authority to select one of the offers as fairest, but can make no other decision. Another example is the Divorce with Dignity Program established in the Fourth Judicial District, in which the parties and the judge agree to attempt to resolve disputed issues through negotiation and use of impartial experts, and the judge determines unresolved preliminary matters by telephone conference call and unresolved dispositive matters by written submissions.

The individual ADR processes are grouped in the new definitions as "adjudicative," "evaluative," "facilitative," and "hybrid." These collective terms are important in the rule, as they are used in other parts of the rule. The group definitions are useful because many of the references elsewhere in the rules are intended to cover broad groups of ADR processes rather than a single process, and because the broader grouping avoids issues of precise definition. The distinction is particularly significant because of the different training requirements under Rule 114.13.

[For text of 114.03, see M.S. 2012, Volume 15]

Rule 114.04 Selection of ADR Process

(a) Conference. After the service of a complaint or petition, the parties shall promptly confer regarding case management issues, including the selection and timing of the ADR process. Following this conference ADR information shall be included in the civil cover sheet required by Rule 104 and in the initial case management statement required by Rule 304.02.

In family law matters, the parties need not meet and confer where one of the parties claims to be the victim of domestic abuse by the other party or where the court determines there is probable cause that one of the parties or a child of the parties has been physically abused or threatened with physical abuse by the other party. In such cases, both parties shall complete and submit form 9A or 9B, specifying the form(s) of ADR the parties individually prefer, not what is agreed upon.

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

Except as otherwise provided in Minnesota Statutes, section 604.11 or Rule 310.01, the court at its discretion may order the parties to utilize one of the non-binding processes; provided that no ADR process shall be approved if the court finds that ADR is not appropriate or if it amounts to a sanction on a non-moving party. Where the parties have proceeded in good faith to attempt to resolve the matter using collaborative law, the court should not ordinarily order the parties to use further ADR processes.

(c) Scheduling Order. The court's Scheduling Order pursuant to Rule 111.03 or 304.03 shall designate the ADR process selected, the deadline for completing the procedure, and the name of the neutral selected or the deadline for the selection of the neutral. If ADR is determined to be inappropriate, the Scheduling Order pursuant to Rule 111.03 or 304.03 shall so indicate.

(d) Post-Decree Family Law Matters. Post-decree matters in family law are subject to ADR under this rule. ADR may be ordered following the conference required by Rule 303.03(c).

(Added effective July 1, 1994; amended effective January 1, 1996; amended effective July 1, 1997; amended effective January 1, 2005; amended effective January 1, 2008; amended effective July 1, 2013.)

Implementation Committee Comment - 1993

Early case evaluation and referral to an appropriate ADR process has proven to facilitate speedy resolution of disputes, and should be encouraged whenever possible. Mandatory referral to a non-binding ADR process may result if the judge makes an informed decision despite the preference of one or more parties to avoid ADR. The judge shall not order the parties to use more than one non-binding ADR process. Seriatim use of ADR processes, unless desired by the parties, is inappropriate. The judge's authority to order mandatory ADR processes should be exercised only after careful consideration of the likelihood that mandatory ADR in specific cases will result in voluntary settlement.

Advisory Committee Comment - 1995 Amendment

Rule 114.04 is amended to make explicit what was implicit before. The rule mandates a telephone or in-court conference if the parties cannot agree on an ADR process. The primary purpose of that conference is to resolve the disagreement on ADR, and the rule

now expressly says that. The court can, and usually will, discuss other scheduling and case management issues at the same time. The court's action following the conference required by this rule may be embodied in a scheduling order entered pursuant to Rule 111.03 of these rules.

Advisory Committee Comment - 1996 Amendment

The changes to this rule are made to incorporate Rule 114's expanded applicability to family law matters. The rule adopts the procedures heretofore followed for ADR in other civil cases. The beginning point of the process is the informational statement, used under either Rule 111.02 or 304.02. The rule encourages the parties to approach ADR in all matters by conferring and agreeing on an ADR method that best suits the need of the case. This procedure recognizes that ADR works best when the parties agree to its use and as many details about its use as possible.

Subdivision (a) requires a conference regarding ADR in civil actions and after commencement of family law proceedings. In family cases seeking post-decree relief, ADR must be considered in the meeting required by Rule 303.03(c). Cases involving domestic abuse are expressly exempted from the ADR meet-and-confer requirement and courts should accommodate implementing ADR in these cases without requiring a meeting nor compromising a party's right to choose an ADR process and neutral.

The rule is not intended to discourage settlement efforts in any action. In cases where any party has been, or claims to have been, a victim of domestic violence, however, courts need to be especially cautious. Facilitative processes, particularly mediation, are especially prone to abuse since they place the parties in direct contact and may encourage them to compromise their rights in situations where their independent decision-making capacity is limited. The rule accordingly prohibits their use where those concerns are present.

Advisory Committee Comment - 2007 Amendment

Rule 114.04(b) is amended to provide a presumptive exemption from court-ordered ADR under Rule 114 where the parties have previously obtained a deferral on the court calendar of an action to permit use of a collaborative law process as defined in Rule 111.05(a).

[For text of 114.05 to 114.14, see M.S. 2012, Volume 15]

PART C. MOTIONS

Rule 115. Motion Practice

[For text of 115.01 to 115.03, see M.S. 2012, Volume 15]

Rule 115.04 Non-dispositive Motions

(a) No motion shall be heard until the moving party pays any required motion filing fee, serves a copy of the following documents on the other party or parties, and files the original with the court administrator at least 14 days prior to the hearing:

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

and

- (4) Any memorandum of law the party intends to submit.

(b) The party responding to the motion shall pay any required motion filing fee, serve a copy of the following documents on the moving party and other interested parties, and file the original with the court administrator at least 7 days prior to the hearing:

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

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

(d) **Expedited, Informal Non-Dispositive Motion Process.** The moving party is encouraged to consider whether the motion can be informally resolved through a telephone conference with the judge. The moving party may invoke this informal resolution process by written notice to the court and all parties. The moving party must also contact the appropriate court administrative or judicial staff to schedule a phone conference. The parties may (but are not required to) submit short letters, with or without a limited number of documents attached (no briefs, declarations or sworn affidavits are to be filed), prior to the conference to set forth their respective positions. The court will read the written submissions of the parties before the phone conference, hear arguments of counsel and unrepresented parties at the conference, and issue its decision at the conclusion of the phone conference or shortly after the conference. Depending on the nature of the dispute, the court may or may not issue a written order. The court may also determine that the dispute must be presented to the court via formal motion and hearing. Telephone conferences will not be recorded or transcribed. (Amended effective January 1, 1993; amended effective January 1, 2004; amended effective July 1, 2013.)

[For text of 115.05 to 115.11, see M.S. 2012, Volume 15]

PART F. SPECIAL PROCEDURES

Rule 144. Actions for Death by Wrongful Act

Rule 144.01 Application for Appointment of Trustee

Every application for the appointment of a trustee of a claim for death by wrongful act under Minnesota Statutes, section 573.02, shall be made by the verified petition of the surviving spouse or one of the next of kin of the decedent. The petition shall show the dates and places of the decedent's birth and death; the decedent's address at the time of death; the name, age and address of the decedent's surviving spouse, children, parents, grandparents, and siblings; and the name, age, occupation and address of the proposed trustee. The petition shall also show whether or not any previous application has been made, the facts with reference thereto and its disposition shall also be stated. The written consent of the proposed trustee to act as such shall be endorsed on or filed with such petition. The application for appointment shall not be considered filing of a document in the case for the purpose of any requirement for filing a certificate of representation or civil cover sheet.

(Amended effective January 1, 1993; amended effective January 1, 2000; amended effective July 1, 2013.)

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

[For text of 144.02 to 144.06, see M.S. 2012, Volume 15]

Rule 146. Complex Cases

146.01 Purpose; Principles

The purposes of the Complex Case Program ("CCP") are to promote effective and efficient judicial management of complex cases in the district courts, avoid unnecessary burdens on the court, keep costs reasonable for the litigants and to promote effective decision making by the court, the parties and counsel.

The core principles that support the establishment of a mandatory CCP include:

- (a) Early and consistent judicial management promotes efficiency.
- (b) Mandatory disclosure of relevant information, rigorously enforced by the court, will result in disclosure of facts and information necessary to avoid unnecessary litigation procedures and discovery.

(c) Blocking complex cases to a single judge from the inception of the case results in the best case management.

(d) Firm trial dates result in better case management and more effective use of the parties' resources, with continuances granted only for good cause.

(e) Education and training for both judges and court staff will assist with the management of complex cases.

146.02 Definition of a Complex Case

(a) Definition. A "complex case" is an action that requires exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties, and counsel.

(b) Factors. In deciding whether an action is a complex case under (a), the court must consider, among other things, whether the action is likely to involve:

(1) Numerous hearings, pretrial and dispositive motions raising difficult or novel legal issues that will be time-consuming to resolve;

(2) Management of a large number of witnesses or a substantial amount of documentary evidence;

(3) Management of a large number of separately represented parties;

(4) Multiple expert witnesses;

(5) Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court;

(6) Substantial post judgment judicial supervision; or

(7) Legal or technical issues of complexity.

(c) Provisional designation. An action is provisionally a complex case if it involves one or more of the following types of claims:

(1) Antitrust or trade regulation claims;

(2) Intellectual property matters, such as trade secrets, copyrights, patents, etc.;

(3) Construction defect claims involving many parties or structures;

(4) Securities claims or investment losses involving many parties;

(5) Environmental or toxic tort claims involving many parties;

(6) Product liability claims;

(7) Claims involving mass torts;

(8) Claims involving class actions;

(9) Ownership or control of business claims; or

(10) Insurance coverage claims arising out of any of the claims listed in (c)(1) through (c)(9).

(d) Parties' designation. In any action not enumerated above, the parties can agree to be governed by Rule 146 of these rules by filing a "CCP Election," in a form to be developed by the state court administrator and posted on the main state court website, to be filed along with the initial pleading.

(e) Motion to Exclude Complex Case Designation. A party objecting to the provisional assignment of a matter to the CCP must serve and file a motion setting forth the reasons that the matter should be removed from the CCP. The motion papers must be served and filed within 14 days of the date the moving party is served with the CCP Designation. The motion shall be heard during the Case Management Conference or at such other time

as determined by the court. The factors that should be considered by the court in ruling on the motion include the factors set forth in Rule 146.02 (b) and (c) above.

146.03 Judge Assigned to Complex Cases

A single judge shall be assigned to all designated complex cases within 30 days of filing in accordance with Rule 113 of these rules. In making the assignment the assigning judge should consider, among other factors, the needs of the court, the judge's ability, interest, training, experience (including experience with complex cases) and willingness to participate in educational programs related to the management of complex cases.

146.04 Mandatory Case Management Conferences

(a) Within 28 days of assignment, the judge assigned to a complex case shall hold a mandatory case management conference. Counsel for all parties and pro se parties shall attend the conference. At the conference, the court will discuss all aspects of the case as contemplated by Minn. R. Civ. P. 16.01.

(b) The court may hold such additional case management conferences, including a pretrial conference, as it deems appropriate.

146.05 Case Management Order and Scheduling Order

In all complex cases, the judge assigned to the case shall enter a Case Management Order and a Scheduling Order (together or separately) addressing the matters set forth in Minn. R. Civ. P. 16.02 and 16.03, and including without limitation the following:

- (a) The dates for subsequent Case Management Conferences in the case;
- (b) the deadline for the parties to meet and confer regarding discovery needs and the preservation and production of electronically stored information;
- (c) the deadline for joining other parties;
- (d) the deadline for amending the pleadings;
- (e) the deadline by which fact discovery will close and provisions for disclosure or discovery of electronically stored information;
- (f) the deadlines by which parties will make expert witness disclosures and deadlines for expert witness depositions;
- (g) the deadlines for non-dispositive and dispositive motions;
- (h) any modifications to the extent of required disclosures and discovery, such as, among other things, limits on:
 - (1) the number of fact depositions each party may take;
 - (2) the number of interrogatories each party may serve;
 - (3) the number of expert witnesses each party may call at trial;
 - (4) the number of expert witnesses each party may depose; and
- (i) a date certain for trial subject to continuation for good cause only, and a statement of whether the case will be tried to a jury or the bench and an estimate of the trial's duration.

(Added effective July 1, 2013.)

PART H. MINNESOTA CIVIL TRIALBOOK

Section 11. Interpreters

The party calling a witness for whom an interpreter is required shall advise the court in the Civil Cover Sheet, Initial Case Management Statement, or Joint Statement of the Case of the need for an interpreter and interpreter services (specifying language and, if known, particular dialect) expected to be required. Parties shall not use a relative or friend as an interpreter in a contested proceeding, except as approved by the court.

Cross Reference: Minn. R. Civ. P. 43.

(Amended effective March 1, 2009; amended effective July 1, 2013.)

Task Force Comment - 1991 Adoption

This section is derived from existing Trialbook paragraph 60.

Advisory Committee Comment - 2008 Amendment

This section is amended to incorporate the amendments to Rules 111.02(l), 111.03(b)(8), and 112.02(g), requiring earlier disclosure of information about the potential need for interpreter services in a case, either for witnesses or for a party. See Minn. Gen. R. Prac. 8.13.