

General Rules of Practice for the District Courts

Adopted Effective January 1, 1992
With amendments effective July 1, 2015

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TEXT OF RULES**Rule 1. Scope of Rules; Modification; Service on Parties; Applicability to Self-Represented Litigants**

[For text of 1.01 and 1.02, see M.S. 2014, Volume 15]

Rule 1.03 Service on Parties

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

Rule 1.04 Responsibility of Self-Represented Litigants

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

Cross Reference: Minn. R. Civ. P. 5.02, 83.

(Amended effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

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

Rule 2. Court Decorum; Conduct of Judges and Lawyers**Rule 2.01 Behavior and Ceremony in General**

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

(b) Flag. The flags of the United States and the State of Minnesota shall be displayed on or in close proximity to the bench when court is in session.

(c) Formalities in Opening Court. At the opening of each court day, the formalities to be observed shall consist of the following: court personnel shall direct all present to stand, and shall say clearly and distinctly:

Everyone please rise! The District Court of the _____ Judicial District, County of _____, State of Minnesota is now open. Judge _____ presiding. Please be seated.

(Rap gavel or give other signal immediately prior to directing audience to be seated.)

At any time thereafter during the day that court is reconvened court personnel shall give warning by gavel or otherwise, and as the judge enters, cause all to stand until the Judge is seated.

(The above rule (to) or (to not) apply to midmorning and midafternoon recesses of the court at the option of the judge.)

(d) The Jury. Jurors shall take their places in the jury box before the judge enters the courtroom. Court personnel shall assemble the jurors when court is reconvened.

When a jury has been selected and is to be sworn, the presiding judge or clerk shall request everyone in the courtroom to stand.

(e) Court Personnel. Court personnel shall maintain order as litigants, witnesses and the public assemble in the courtroom, during trial and during recesses. Court personnel shall direct them to seats and refuse admittance to the courtroom in such trials where the courtroom is occupied to its full seating capacity.

(f) Swearing of Witnesses. When the witness is sworn, court personnel shall request the witness's full name, and after being sworn, courteously invite the witness to be seated on the witness stand.

(g) Manner of Administration of Oath. Oaths and affirmations shall be administered to jurors and witnesses in a slow, clear, and dignified manner. Witnesses should stand near the bench, or witness stand as sworn. The swearing of witnesses should be an impressive ceremony and not a mere formality.

(Amended effective January 1, 1998; amended effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

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

Rule 2.02 Role of Judges

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

(b) Punctuality. The judge shall be punctual in convening court, and prompt in the performance of judicial duties, recognizing that the time of litigants, jurors and attorneys is of value and that habitual lack of punctuality on part of a judge justifies dissatisfaction with the administration of the business of the court.

(c) Impartiality. During the presentation of the case, the judge shall maintain absolute impartiality, and shall neither by word or sign indicate favor to any party to the litigation. The judge shall be impersonal in addressing the lawyers, litigants and other officers of the court.

(d) Intervention. The judge should generally refrain from intervening in the examination of witnesses or argument of counsel; however, the court shall intervene upon its own initiative to prevent a miscarriage of justice or obvious error of law.

(e) Decorum in Court. The judge shall be responsible for order and decorum in the court and shall see to it at all times that parties and witnesses in the case are treated with proper courtesy and respect.

(f) Accurate Record. The judge shall be in complete charge of the trial at all times and shall see to it that everything is done to obtain a clear and accurate record of the trial. It is a duty to see that the witnesses testify clearly so that the reporter may obtain a correct record of all proceedings in court.

(g) Comment Upon Verdict. The judge should not comment favorably or adversely upon the verdict of a jury when it may indirectly influence the action of the jury in causes remaining to be tried.

(Amended effective January 1, 1998; amended effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

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

Rule 2.03 Role of Attorneys

(a) Officer of Court. The lawyer is an officer of the court and should at all times uphold the honor and maintain the dignity of the profession, maintaining at all times a respectful attitude toward the court.

(b) Addressing Court or Jury. Except when making objections, lawyers should rise and remain standing while addressing the court or the jury. In addressing the court, the lawyer should refer to the judge as "Your Honor" or "The Court." Counsel shall not address or refer to jurors individually or by name or occupation, except during voir dire, and shall

never use the first name when addressing a juror in voir dire examination. During trial, counsel shall not exhibit familiarity with the judge, jurors, witnesses, parties or other counsel, nor address them by use of first names (except for children).

(c) Approaching Bench. The lawyers should address the court from a position at the counsel table. If a lawyer finds it necessary to discuss some question out of the hearing of the jury at the bench, the lawyer may so indicate to the court and, if invited, approach the bench for the purpose indicated. In such an instance, the lawyers should never lean upon the bench nor appear to engage the court in a familiar manner.

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

(e) Attire. Lawyers shall appear in court in appropriate courtroom attire.

(Amended effective January 1, 1998; amended effective July 1, 2015.)

Advisory Committee Comment - 1997 Amendment

The majority of this rule was initially derived from the former Rules of Uniform Decorum. The adoption of these rules in 1991 included these provisions in Part H, Minnesota Civil Trialbook. They are recodified here to make it clear that the standards for decorum, for lawyers and judges, apply in criminal as well as civil proceedings.

The Task Force on Uniform Local Rules considered the recommendations of the Minnesota Supreme Court Task Force on Gender Fairness, and recommended Rule 2.03(d) be adopted to implement, in part, the recommendations of that body. See Minnesota Supreme Court Task Force for Gender Fairness in the Courts, 15 Wm. Mitchell L. Rev. 825 (1989). The rule specifically incorporated the definition of discriminatory conduct in the Minnesota Human Rights Act, Minnesota Statutes 1990, section 363.01, subdivision 1, clause (1). The Task Force added to the statutory definition of discrimination the category of sexual preference.

The inclusion of these provisions in the rules is intended to establish uniform standards to be followed in most cases. Nothing in this rule limits the power of the court to modify the rules or their application in a particular case. See Rule 1.02. It is not intended that the failure to follow these rules, in itself, would be the subject of claimed error in the conduct of the trial court proceedings in the absence of aggravating circumstances, such as repeated violations or persistent violation after objections by a party or direction from the court.

Advisory Committee Comment - 2015 Amendments

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

Rule 5. Appearance by Out-of-State Lawyers

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

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

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This rule is derived from 3rd Dist. R. 1.

This rule is intended to supplement Minnesota Statutes 1990, section 481.02, and would supersede the statute to the extent the rule may be inconsistent with it. This rule recognizes and preserves the power and responsibility of the court to determine the proper role to be played by lawyers not admitted to practice in Minnesota.

Advisory Committee Comment - 2015 Amendments

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

Rule 6. Form of Pleadings that Are Not Filed Electronically

Rule 6.01 Format

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

(Amended effective January 1, 2006; amended effective September 1, 2012; amended effective July 1, 2015.)

Advisory Committee Comment - 2006 Amendment

Rule 6.01 is amended to delete a sentence dealing with filing by facsimile. The former provision is, in effect, superseded by Minn. R. Civ. P. 5.05, as amended effective January 1, 2006.

Advisory Committee Comment - 2012 Amendment

Rule 6.01 is amended to dovetail the requirements for the form of paper pleadings, as set forth in the prior text of this rule, with the fundamentally different format required for documents electronically filed and served. Those format requirements are generally set forth in new Rule 14.05.

Rule 6.02 Paper Size

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

(Amended effective July 1, 2015.)

Rule 6.03 Backings Not Allowed

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

(Former Rule 102 adopted effective January 1, 1992; renumbered effective January 1, 1993; amended effective July 1, 2015.)

Cross Reference: Minn. R. Civ. P. 5.05, 10.

Advisory Committee Comment - 1992 Amendment

This rule is based on 4th Dist. R. 1.01 (a) & (b), with changes.

Although the rule permits the filing of handwritten documents, the clearly preferred practice in Minnesota is for typewritten documents. Similarly, commercially printed papers are rarely, if ever, used in Minnesota trial court practice, and the use of printed briefs in appellate practice is discouraged.

All courts in Minnesota converted to use of "letter size" paper in 1982. See Order Mandating 8-1/2 x 11 Inch Size Paper For All Filings in All Courts in the State, Minn. Sup. Ct., Apr. 16, 1982 (no current file number assigned), reprinted in Minn. Rules of Ct. 665 (West pamph. ed. 1992). Papers filed in the appellate courts must also be on letter-sized paper. See Minn. R. Civ. App. P. 132.01, subdivision 1. This rule simply reiterates the requirement for the trial courts.

Advisory Committee Comment - 2015 Amendments

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

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

Rule 7. Proof of Service

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

(Former Rule 103 adopted effective January 1, 1992; renumbered effective January 1, 1993; amended effective January 1, 1996; amended effective September 1, 2012; amended effective July 1, 2015.)

Cross Reference: Minn. R. Civ. P. 4.06, 5.04.

Advisory Committee Comment - 1995 Amendment

This rule derived from Rule 13 of the Code of Rules for the District Courts.

The second sentence is new, drafted to provide for filing of documents where service is to be made after filing.

The Committee recommends amendment of the rule to require a specific rather than subjective standard for the filing of proof of service. Although the Committee heard requests to change the rule to require that all documents be filed with proof of service attached, the Committee believes that such a rule is neither helpful nor necessary. Such a rule would

make it difficult to serve and file documents at the same time, and would probably result in greater problems relating to untimely service and filing. Nonetheless, there appear to be a number of situations where proof of service is not filed for a substantial period of time, resulting in confusion in the courts. The rule is accordingly amended to change the requirement from filing "promptly" after service to "within ten days" after service. The Committee believes this period is more than sufficient for filing a proof of service. The Committee is also sensitive to a potential problem that would arise with a requirement that proof of service accompany documents at the time of filing. The Committee continues to believe that documents, in whatever form, should not be rejected for filing by the court administrators. Rather, documents should be filed as submitted and the court should deal with any deficiencies or irregularities in the documents in an orderly way, having in mind the mandate of Minn. R. Civ. P. 1 that the rules be interpreted to advance the "just, speedy, and inexpensive" determination of every action.

Advisory Committee Comment - 2012 Amendment

Rule 7 is amended to make it clear that a separate proof of service is not required for documents served using the court's e-service system in cases where that method is authorized by the rules. Proof of service exists in the system's records and that record of service suffices to prove service for all purposes.

Advisory Committee Comment - 2015 Amendments

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

Rule 9. Frivolous Litigation

[For text of 9.01 to 9.05, see M.S. 2014, Volume 15]

Rule 9.06 Definitions

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

(a) "Claim" means any relief requested in the form of a claim, counterclaim, cross claim, third party claim, or lien filed, served, commenced, maintained, or pending in any federal or state court, including conciliation court.

(b) "Frivolous litigant" means:

(1) A person who, after a claim has been finally determined against the person, repeatedly relitigates or attempts to relitigate either

(i) the validity of the determination against the same party or parties as to whom the claim was finally determined, or

(ii) the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the same party or parties as to whom the claim was finally determined; or

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

(3) A person who institutes and maintains a claim that is not well grounded in fact and not warranted by existing law or a good faith argument for the extension, modification or reversal of existing law or that is interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigating the claim.

(c) "Security" means either:

(1) an undertaking to assure payment, issued by a surety authorized to issue surety bonds in the State of Minnesota, to the party for whose benefit the undertaking is required to be furnished, of the party's reasonable expenses, including attorney's fees and not limited to taxable costs, incurred in or in connection with a claim instituted, caused to be instituted, or maintained or caused to be maintained by a frivolous litigant or;

(2) cash tendered to and accepted by the court administrator for that purpose.

(Added effective September 1, 1999; amended effective July 1, 2015.)

Rule 9.07 Effect on Other Provisions

Sanctions available under this rule are in addition to sanctions expressly authorized by any other statute or rule, or in the inherent power of the court.

(Added effective September 1, 1999.)

Advisory Committee Comment - 1999 Amendment

This rule is intended to curb frivolous litigation that is seriously burdensome on the courts, parties, and litigants. This rule is intended to apply only in the most egregious circumstances of abuse of the litigation process, and the remedies allowed by the rule can be viewed as drastic. Because of the very serious nature of the sanctions under this rule, courts should be certain that all reasonable efforts have been taken to ensure that affected parties are given notice and an opportunity to be heard. Rule 9.01 also requires that the court enter findings of fact to support any relief ordered under the rule, and this requirement should be given careful attention in the rare case where relief under this rule is necessary.

It is appropriate for the court to tailor the sanction imposed under this rule to the conduct and to limit the sanction to what is necessary to curb the inappropriate conduct of the frivolous litigant. See Cello-Whitney v. Hoover, 769 F. Supp. 1155 (W.D. Wash. 1991).

This rule includes a specific provision relating to the possible appeal of an order for sanctions. The rule provides that an appeal may be taken within 60 days, the same period allowed for appeals from orders and judgment, but specifies that the 60-day period begins to run from entry of the date of filing of the order. This timing mechanism is preferable because the requirement of service of notice of entry may not be workable where only one party may be interested in the appeal or where the order is entered on the court's own initiative. The date of filing can be readily determined, and typically appears on the face of the order or is a matter of record, obviating confusion over the time to appeal.

Advisory Committee Comment - 2015 Amendments

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

Rule 11. Submission of Confidential Information

[For text of 11.01, see M.S. 2014, Volume 15]

Rule 11.02 Restricted Identifiers

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

(1) on a separate form entitled Confidential Information Form (see Form 11.1 as published by the state court administrator) filed with the pleading or other document; or

(2) on Confidential Financial Source Documents under Rule 11.03.

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

The parties are solely responsible for ensuring that restricted identifiers do not otherwise appear on the pleading or other document filed with the court. The court administrator will not review each pleading or document filed by a party for compliance with this rule. Notwithstanding this provision, the court administrator may take any action consistent with Rule 11.04.

(b) Records Generated by the Court. Restricted identifiers maintained by the court in its register of actions (i.e., activity summary or similar information that lists the title, origination, activities, proceedings and filings in each case), calendars, indexes, and judgment docket shall not be accessible to the public. Courts shall not include restricted identifiers on judgments, orders, decisions, and notices except on the Confidential Information Form (Form 11.1), which shall not be accessible to the public.

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

(Added effective July 1, 2005; amended effective January 1, 2010; amended effective July 1, 2014; amended effective July 1, 2015.)

Rule 11.03 Confidential Financial Source Documents

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

(b) Closed Account Statements. Statements from a permanently closed (also known as "charged off") credit card or financial institution account that has been identified as a closed account in the related pleading or other filed document need not be submitted as a Confidential Financial Source Document under Rule 11.03 of these rules unless desired by the filing party or as directed by the court.

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

(Added effective July 1, 2005; amended effective July 1, 2007; amended effective January 1, 2010; amended effective July 1, 2014; amended effective July 1, 2015.)

Rule 11.04 Failure to Comply

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

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

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

(2) file a motion for relief from the court.

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

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

(Amended effective July 1, 2015.)

Rule 11.05 Procedure for Requesting Access to Confidential Financial Source Documents

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

(b) Waiver of Notice. If the person seeking access cannot locate a party to provide the notice required under this rule, after making a good faith reasonable effort to provide such notice as required by applicable court rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provisions of this rule. The court may waive the notice requirements of this rule if the court finds that further good faith efforts to locate the party are unlikely to be successful.

(c) Balancing Test. The court shall allow access to Confidential Financial Source Documents, or relevant portions of the documents, if the court finds that the public interest in granting access or the personal interest of the person seeking access outweighs the privacy interests of the parties or dependent children. In granting access the court may impose conditions necessary to balance the interests consistent with this rule.

(Amended effective July 1, 2014; amended effective July 1, 2015.)

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

A party may submit a document for filing as a "confidential document" or "sealed document" only if one of these circumstances exists:

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

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

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

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

(Added effective July 1, 2005; amended effective January 1, 2010; amended effective September 1, 2012; amended effective July 1, 2015.)

Advisory Committee Comment - 2005 Amendment

Rule 11 is a new rule, but is derived in part from former Rule 313. It is also based on WASH. GR 22 (2003). Under this rule, applicable in all court proceedings, parties are now responsible for protecting the privacy of restricted identifiers (social security numbers or employer identification numbers and financial account numbers) and financial source documents by submitting them with the proper forms. Failure to comply would result in the public having access to the restricted identifiers and financial source documents from the case file unless the party files a motion to seal them or the court acts on its own initiative

under Rule 11.03. The Confidential Information Form from Rule 313 is retained, modified, and renumbered, and a new Sealed Financial Source Documents cover sheet has been added. The court retains authority to impose sanctions against parties who violate the rule in regard to another individual's restricted identifiers or financial source documents.

New in 2005 is the procedure for obtaining access to restricted identifiers and sealed financial source documents. This process requires the court to balance the competing interest involved. See, e.g., *Minneapolis Star & Tribune Co. v. Schumacher*, 392 N.W.2d 197 (Minn. 1986) (when party seeks to restrict access to settlement documents and transcripts of settlement hearings made part of civil court file by statute, court must balance interests favoring access, along with presumption in favor of access, against those asserted for restricting access).

Advisory Committee Comment - 2007 Amendment

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.

Advisory Committee Comment - 2009 Amendment

Rule 11 is amended to remove Forms 11.1 and 11.2 from the rules and to correct the reference to the forms in the rule. This amendment will allow for the maintenance and publication of the form by the state court administrator. The form, together with other court forms, can be found at <http://www.mncourts.gov/>.

Forms 11.1 and 11.2 should be deleted from the rules and maintained in the future on the court's Web site.

Advisory Committee Comment - 2012 Amendment

Rule 11.06 is a new rule intended to define the procedural prerequisites for filing of documents under seal. This rule is not intended to expand or limit the confidentiality concerns that might justify special treatment of any document. The rule is intended to make it clear that filing parties do not have a unilateral right to designate any filing as confidential, and that permission from the court is required. This permission may flow from a statute or rule explicitly requiring that a particular document or portion of a document be filed confidentially or from a court order that documents be filed under seal. Rule 112 of the Minnesota Rules of Civil Appellate Procedure contains useful guidance on how confidential information can be handled. Where documents contain both confidential and non-confidential information, it may be appropriate to file redacted "public" versions of documents filed under seal.

Advisory Committee Comment - 2015 Amendments

The amendments to Rule 11 are intended to advance the important interests in preventing the filing of confidential and sensitive information in publicly accessible court files. The amendment to Rule 11.02(a) reminds filers that the best way to prevent public access to sensitive personal information is not to file it with the court unless needed. If a Social Security number, financial institution record, home address, and any other information defined to be a restricted identifier under the rule is not required for the adjudication of a matter before the court, simply omitting it from the filing prevents any further risk of disclosure. If the information is necessary, then using the other procedures of Rule 11.02 is necessary.

The consequences of failing to comply with the rule include sanctions against the filer, and if failure to follow the rule causes injury to any person, an action for damages may lie.

There are very few statutes that require the filing of restricted identifiers. They may be required in certain family child support cases, see Minnesota Statutes, sections 256.87, subdivision 1a; 257.66, subdivision 3; 518.10; 518A.56; and United States Code, title 42, section 666(a)(13), which currently require the court to identify the parties by Social Security number. Minnesota Statutes, section 548.101, requires the disclosure of the last four digits of a debtor's Social Security number; if known, in cases involving assigned consumer debt. Social Security numbers were required for filings to commence informal probate or appointment proceedings until 2006. See Minnesota Laws 2006, chapter 221, section 20, amending Minnesota Statutes, section 524.3-301.

Rule 11.02(c) is new and provides that filing constitutes certification that the document does not contain unauthorized restricted identifiers. For documents filed electronically, this certification may additionally be made explicitly by checking the appropriate box on a screen that will be incorporated into the e-filing process. See also Rule 14.06. As is true for other rules, failure to follow the rule, or the making of a false certification, may warrant the imposition of sanctions as may be authorized by other rules or under the court's inherent power.

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

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

Rule 12. Requirement for Comparable Means of Service

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

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

(Added effective March 1, 2009; amended effective January 1, 2010; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

Rule 12 is a new rule, recommended to codify a longstanding practice of professional courtesy: that papers served both to the court and to the other party be served and filed by comparable means. The rule does not require that the same means be used; but if hand delivery to the court is chosen for filing, then either hand delivery, overnight courier sent the day before, or facsimile transmission to other party must be used. The measure of compliance is approximate simultaneity; the purpose of the rule is to discourage gameplaying over service. Fairness requires that service and filing occur at about the same time; delivering papers immediately to the court and then serving them leisurely upon counsel is not justified and in some cases is not fair.

Advisory Committee Comment - 2009 Amendment

Rule 12 is amended to add the last sentence of the first paragraph. The amendment is intended to clarify that the rule does not modify two facets of practice established before its adoption. It does not require that pleadings be filed before the time allowed under Rule 5.05, which generally makes it unnecessary to file pleadings until after a party files a pleading, thereby opening a court file. This rule is a part of Minnesota's "hip-pocket" service regime as established by Minn. R. Civ. P. 3 and 11 contains a 21-day "safe harbor" provision, requiring service of a motion for sanctions but prohibiting filing of the motion for 21 days. The amendment to Rule 12 of the general rules was not intended to modify that important provision.

Advisory Committee Comment - 2015 Amendments

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

A self-represented litigant who elects not to use the E-Filing System may expect that an opposing attorney may e-file a document with the court and serve it by U.S. mail on the self-represented litigant on the same day. In this circumstance, the filing will precede the service, which is permitted under the rule as the attorney is required to use the E-Filing System to file the document.

Rule 14. E-Filing and E-Service

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

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

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

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

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

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

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

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

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

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

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

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

- (i) Attorney;
- (ii) Government agency (including a sheriff); and
- (iii) Guardian ad litem.

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

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

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

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

(2) Prohibited E-Filing. The following documents may not be filed electronically:

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

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

(3) Request for Exception to Mandatory E-File and E-Service Requirement.

A Select User required to file and serve electronically under this rule may request to be excused from mandatory e-filing and e-service in a particular case by motion to the Chief Judge of the judicial district or his or her designee. An opt-out request may be granted for good cause shown. If an opt-out request is granted, court personnel shall scan all documents filed conventionally into the court's computer system and may charge the filing party an appropriate fee.

(4) Voluntary E-File and E-Serve. Effective July 1, 2015, and ending July 1, 2016, Select Users designated by the state court administrator may, upon registering with the Designated Provider, electronically file documents with the court in the locations and cases designated by the state court administrator. In any designated case in which the designated and registered Select User has electronically filed a document with the district court, any other Select User designated by the state court administrator may also electronically file documents in the case after registering with the Designated Provider. Registered Select Users shall also electronically serve documents on other registered Select Users in such cases as required under Rule 14.03(d) of these rules.

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

(i) Election to Use E-Filing System. Unless otherwise required or authorized by these rules, other rules of court, or an order of the court, in any county where electronic filing and service is authorized, a self-represented litigant may elect to use the E-Filing System to electronically file and serve. But unless otherwise ordered by the presiding judge or judicial officer, a self-represented litigant is not required to do so. Once a self-represented litigant has elected or been ordered to use the E-Filing System for filing and service and has

become a Registered User, that individual must thereafter electronically file and serve all documents in that case unless otherwise required or authorized by these rules or the court, and shall be subject to all applicable requirements and obligations imposed upon Registered Users as set forth in these rules.

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

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

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

(6) Non-Party Participants.

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

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

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

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

(c) Relief from Operation of this Rule.

(1) **Technical Errors; Relief for Sending Party.** Upon motion and a showing that electronic filing or electronic service of a document was not completed because of: (1) an error in the transmission of the document to the E-Filing System; (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; amended effective July 1, 2015.)

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

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

(b) Obligations and Responsibilities of Registered Users.

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

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

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

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

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

(Added effective September 1, 2012; amended effective July 1, 2015.)

Rule 14.03 Filing and Service of Documents and Court Notices

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

(b) **Filed Upon Transmittal.** A document that is electronically filed is deemed to have been filed by the court administrator on the date and time of its transmittal to the court

through the E-Filing System, and except for proposed orders, the filing shall be stamped with this date and time if it is subsequently accepted by the court administrator. If the filing is not subsequently accepted by the court administrator for reasons authorized in Rule 5.04 of the Rules of Civil Procedure, no date stamp shall be applied, and the E-Filing System shall notify the filer that the filing was not accepted. Upon receipt of a document electronically transmitted for filing by a Registered User, the E-Filing System shall confirm to the Registered User, through an automatically generated notification to the Registered User's designated e-mail address, that the transmission of the document was completed and the date and time of the document's receipt. Absent confirmation of receipt, there is no presumption that the document was successfully transmitted to the court. The Registered User is solely responsible for verifying that the court received all electronically transmitted documents.

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

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

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

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

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

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

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

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

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

(f) **Court Notices.** The court may transmit any document or notice to a Registered User through the E-Filing System. Notice is effective upon transmission of the document

or notice to the E-Filing System by the court. The court may also transmit notices outside the E-Filing System as provided in Rule 14.02(a) or other applicable rules.

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

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

(Added effective September 1, 2012; amended effective September 16, 2013; amended effective July 1, 2015.)

Rule 14.04 Signatures

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

(b) Registered User and Non-Registered User Signatures.

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

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

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

(d) **Perjury Penalty Acknowledgment.** A document electronically filed or served through the E-Filing System that requires a signature under penalty of perjury may, with the same force and effect and in lieu of an oath, be supported by an unsworn declaration, provided that the typographical or facsimile signature of the declarant is affixed immediately

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

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

(Added effective September 1, 2012; amended effective July 1, 2015.)

Rule 14.05 Proof of Service.

The records of the E-Filing System indicating transmittal to the Registered User recipient shall be sufficient proof of service on the recipient for all purposes.

(Added effective September 1, 2012; amended effective July 1, 2015.)

Rule 14.06 Sealed and Confidential Documents.

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

(1) causing the document to be conventionally mailed or hand-delivered to the presiding judge or judicial officer; or

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

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

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

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

(Added effective September 1, 2012; amended effective July 1, 2015.)

Rule 14.07 Records: Official; Appeal; Certified Copies.

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

(Added effective September 1, 2012; amended effective July 1, 2015.)

Advisory Committee Comment - 2012 Amendment

Rule 14 is a new rule, drafted to provide a uniform structure for implementation of e-filing and e-service in the district courts. The rule is derived in substantial part, with modification, from the Judicial District E-Filing Pilot Project Provisions, adopted by the Minnesota Supreme Court on October 21, 2010, and amended on March 10, 2011.

Rule 14.01 defines the cases that are subject to mandatory e-filing and e-service. This rule is intended to evolve by amendment by order of the supreme court as additional case categories or additional judicial districts are added to the pilot project. The other requirements for e-filing and e-service are not intended to see frequent amendment, and the committee believes the rules for e-filing and e-service, when authorized, should be maintained as uniform rules statewide.

Rule 14.01(d) provides for requests to be excused from required use of e-filing and e-service, and creates a "good cause" standard for granting that relief. There are few circumstances where the court should grant exemption from the requirements.

Because cases in Minnesota may be commenced by service rather than by filing with the court, the use of e-service under the court's system is possible only after the action has been commenced and is filed, and service may then be effected electronically only on an attorney or party who registers with the system and provides an e-mail address at which service from other parties and notices from the court can be delivered. Rule 14.02 sets forth this procedure. Rule 13.01 imposes an affirmative duty on parties and their attorneys to advise the court of any changes in their address, including their e-mail address.

The format requirements for documents are superficially the same as for other documents - they should be based on an 8-1/2 by 11 inch format, with a caption at the top and signature block at the end. But they are in fact filed as electronic records on a computer service and served on other parties by e-mail. Rule 14.03 defines the available electronic format for these documents and other requirements applicable to e-filed and e-served documents.

Rule 14.04 establishes the means by which electronic documents are "signed." The rule explicitly states the standard that e-filed and e-served documents as they reside on the computer system used by the court constitute originals, and are not mere copies of documents. The rule does not require the signing or retention of a paper copy of any filed document. It may be prudent for a litigant to maintain copies of these documents as duplicate originals in some limited circumstances, such as where an affidavit is signed by a non-party who may not be available if a dispute were to arise over authenticity.

Rule 14.06 establishes a specific procedure for filing electronic documents that either contain confidential information or are filed under seal. This rule establishes the requirements for electronic documents that are consistent with the requirements in Rule 11.06. Neither rule is intended to expand or limit the confidentiality concerns that might justify special treatment of any document. Under Rule 11.06, filing parties do not have a unilateral right to designate any filing as confidential, and prior permission in some form is required. This permission may flow from a statute or rule explicitly requiring that a particular document or portion of a document be filed confidentially or from a court order that documents be filed under seal. Rule 112 of the Minnesota Rules of Civil Appellate Procedure contains useful guidance on how confidential information can be handled. Where documents contain both confidential and non-confidential information, it may be appropriate to file redacted "public" versions of confidential or sealed documents.

Rule 14.06 also permits a party to seek either permission or a requirement that certain sealed or confidential documents be filed in paper format. This provision recognizes that certain information may be so sensitive or valuable that placing it in a sealed envelope with a clear warning that it is not to be opened except by court order may be the appropriate means to assure confidentiality.

The security designations "confidential" and "sealed" reflect the security classifications available in the courts case management system. In addition to court staff access, some confidential documents (e.g., in Domestic Violence, Juvenile Delinquency, and Parent/Child relationship cases) may be accessible to certain government entities who have demonstrated a need for access and have signed appropriate nondisclosure agreements. See, e.g., Rule 8, subd. 4(b), of the Rules of Public Access to Records of the Judicial Branch (authorizing access by county attorneys and public defenders, among others).

Pursuant to Minn. R. Civ. P. 5.06, a document that is electronically filed is deemed to have been filed by the court administrator on the date and time of its transmittal to the District Court through the E-Filing System, and the filing shall be stamped with this date and time subject to acceptance by the court administrator. If the filing is not subsequently accepted by the court administrator for reasons authorized by Minn. R. Civ. P. 5.04, the date stamp shall be removed and the document electronically returned to the person who filed it.

Advisory Committee Comment - 2015 Amendments

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

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

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

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

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

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

such as non-party guardians ad litem, probation officers or other court services personnel, victim advocates, or similar interested persons.

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

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

Rule 14.07 is amended to make it clear that even when documents are filed in paper form, the court may scan and digitize their content, and retain only the electronic record of the filing. Ultimately, the duration of retention of that electronic record will be governed by the court's record retention schedule. See District Court Record Retention Schedule 2014, published on the main Minnesota Courts website, www.mncourts.gov, under "Justice Partner Resources."

Rule 15. Affidavits

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

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

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

(Added effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

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

Subdivision (a) of the rule applies to any document that is "signed, sworn, and notarized." This category includes documents signed and sworn to before ex officio notaries, such as deputy court administrators. See Minnesota Statutes, section 358.15. It would also apply to affidavits signed outside Minnesota to the extent authorized by statute. See Minnesota Statutes, sections 358.46 to 358.48.

Rule 16. Pagination of Court Filings and Exhibits

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

(Added effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

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

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

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

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

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

(a) If the case is a family case or a civil case listed in Rule 111.01 of this rule, the name, postal address, e-mail address, and telephone number of all counsel and self-represented litigants, if known, in a Certificate of Representation and Parties (see Form CIV102 promulgated by the state court administrator and published on the website www.mncourts.gov) 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; amended effective July 1, 2015.)

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.

Rule 105. Withdrawal of Counsel

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

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

(Amended effective January 1, 1998; amended effective July 1, 2015.)

Advisory Committee Comment - 1997 Amendment

The Task Force believes that uniformity in withdrawal practice and procedure would be desirable. Existing practice varies, in part due to differing rules and in part due to differing practices in the absence of a rule of statewide application. The primary concern upon withdrawal is the continuity of the litigation. Withdrawal should not impose additional burdens on opposing parties. The Task Force considered various rules that would make it more onerous for lawyers to withdraw, but determined those rules are not necessary nor desirable. Consistent with the right of parties to proceed pro se, they may continue to represent themselves where their lawyers have withdrawn. This rule establishes the procedure for withdrawal of counsel; it does not itself authorize withdrawal nor does it change the rules governing a lawyer's right or obligation to withdraw in any way. See Minn. R. Prof. Cond. 1.16. The rule does not affect or lessen a lawyer's obligations to the client upon withdrawal. Those matters are governed by the Minnesota Rules of Professional Conduct. See Minn. R.

Prof. Cond. 1.16. Enforcement of those rules is best left to the Lawyers Professional Responsibility Board.

The 1997 amendment removes any suggestion that the notice of withdrawal must be filed with the court if no other documents have been filed by any party. When other documents are filed by any party, however, it should be filed as required by Minn. R. Civ. P. 5.04.

The rule makes it clear that the withdrawal of counsel does not, in itself, justify continuance of any trial or hearing. Of course, withdrawal or substitution of counsel may be part of a set of circumstances justifying the exercise of the court's discretion to grant a continuance.

Rule 110. Self-Help Programs

[For text of 110.01 to 110.08, see M.S. 2014, Volume 15]

Rule 110.09 Access to Records

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

(Added effective January 1, 2004; amended effective July 1, 2015.)

Advisory Committee Comment - 2003 Adoption

Rule 110 is a new rule adopted in 2003 on the recommendation of a pro se implementation committee to facilitate access to and use of the courts by pro se litigants. It is modeled after similar family law provisions in other jurisdictions. See e.g., CA. FAM. CODE sections 10000-100015 (West 2003); FLA. FAM. L. R. P. 12.750 (West 2003); OR. REV. STAT. section 3.428 (2003); WASH. REV. CODE section 26.12.240 (2003); WASH. R. GEN. GR 27 (West 2003).

The rule defines and communicates to interested parties the role of Self-Help Personnel. Definition of roles is important because of the potential for confusion. Rule 110.03(b) intentionally limits the definition of Self-Help Personnel to exclude lawyers who provide services to one party, as is commonly done by legal service program attorneys. Because of this definition, Rule 110.07 does not limit the creation of an attorney-client relationship in such attorney-client relationships. Rules 110.07 and 110.08 recognize that Self-Help Personnel who are otherwise engaged in or authorized to engage in the practice of law may have obligations to clients outside the Self-Help Program that can affect their relationships to Self-Represented Litigants within the Self-Help Program.

Advisory Committee Comment - 2015 Amendments

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

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

[For text of 113.01 and 113.02, see M.S. 2014, Volume 15]

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

(a) Assignment by Chief Justice. When two or more cases pending in more than one judicial district involve one or more common questions of fact or are otherwise related cases in which there is a special need for or desirability of central or coordinated judicial

management, a motion by a party or a court's request for assignment of the cases to a single judge may be made to the chief justice of the Supreme Court.

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

(c) Mechanics and Effect of Transfer. When such a motion is made, the chief justice may, after consultation with the chief judges of the affected districts and the state court administrator, assign the cases to a judge in one of the districts in which any of the cases is pending or in any other district. If the motion is to be granted, in selecting a judge the chief justice may consider, among other things, the scope of the cases and their possible impact on judicial resources, the availability of adequate judicial resources in the affected districts, and the ability, interests, training and experience of the available judges. As necessary, the chief justice may assign an alternate or back-up judge or judges to assist in the management and disposition of the cases. The assigned judge may refer any case to the chief judge of the district in which the case was pending for trial before a judge of that district selected by the chief judge.

(Added effective July 1, 1994; amended effective March 1, 2001; amended effective January 1, 2006; amended effective July 1, 2015.)

Advisory Committee Comment - 2000 Amendment

Rule 113.01 applies to assignment of a single case within a judicial district or county that does not already use a so-called block assignment system whereby cases are routinely assigned to the same judge for all pretrial and trial proceedings. Although parties can request a single-judge assignment in the informational statement under Rule 111, this rule contemplates a formal motion with facts presented supporting the request in the form of sworn testimony. The grounds for the motion in Rule 113.01(b) were derived from rules 1800-1811 of the California Special Rules for Trial Courts, Div. V, Complex Cases. If the court finds that management of the claims or issues has become routine, the matter would not rise to the level of requiring assignment to a single judge. A motion to certify a class, for example, might be routine in terms of court management. Once a class has been certified and the matter becomes a class action, however, the complexity may rise to the level that requires a single judge assignment. Under Rule 113.01(a), the motion is to be made to the chief judge (or his or her designee) of the district in which the case is pending.

Rule 113.02 recognizes that motions for consolidation of cases within a single judicial district may be heard by the chief judge of the district or his or her designee.

Rule 113.03 is new, and is intended merely to establish a formal procedure for requesting the chief justice to exercise the power to assign multiple cases in different districts to a single judge when the interests of justice dictate. The power to assign cases has been recognized by the Supreme Court in a few decisions over the past decade or so. See, e.g., In re Minnesota Vitamin Antitrust Litigation, 606 N.W.2d 446 (Minn. 2000); In re Minnesota Silicone Implant Litigation, 503 N.W.2d 472 (Minn. 1993); In re Minnesota L-tryptophan Litigation, No. C0-91-706 (Minn. Sup. Ct., Apr. 24, 1991); In re Minnesota Asbestos Litigation, No. C4-87-2406 (Minn. Sup. Ct., Dec. 15, 1987). The power is derived from the inherent power of the court and specific statutory recognition of that power in Minnesota Statutes 1998, sections 2.724 and 480.16. The rule is intended to establish a procedure for seeking consideration of transfer by the chief justice. The procedure contemplates notice to interested parties and consultation with the affected judges so that the sound administration

of the cases is not compromised. Transfer of cases for coordinated pretrial proceedings is an established practice in the federal court system under 28 U.S.C. section 1407. Although this rule is not as complex as its federal counterpart, its purpose is largely the same - to facilitate the efficient and fair handling of multiple cases. Practice under the federal statute has worked well, and is one of the most important tools of complex case management in the federal courts. See generally DAVID F. HERR, MULTIDISTRICT LITIGATION: HANDLING CASES BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION (1986 & Supp. 1996). A companion change is made to Minn. R. Civ. P. 63.03, making it clear that when a judge is assigned by order of the chief justice pursuant to this rule that the judge so appointed may not be removed peremptorily under Rule 63 or the statutory restatement of the removal power contained in Minnesota Statutes 1998, section 542.16.

Advisory Committee Comment - 2006 Amendment

The amendments to Rule 113.03 are intended to provide more detailed guidance about the procedures to be followed in seeking transfer of cases under the rule. The rule clarifies the existing practice and specifically incorporates the normal procedures for handling motions in the appellate courts. Because the motion is made to the chief justice rather than the entire court, fewer copies are necessary, but other procedures of Minn. R. Civ. App. P. 127 and 132.02 apply to these motions.

Advisory Committee Comment - 2015 Amendments

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

Rule 114. Alternative Dispute Resolution

[For text of 114.01 to 114.03, see M.S. 2014, 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 self-represented litigants 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; amended effective July 1, 2015.)

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).

Advisory Committee Comment - 2015 Amendments

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

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

[For text of 114.05 to 114.08, see M.S. 2014, Volume 15]

Rule 114.09 Arbitration Proceedings

(a) General. Parties are free to opt for binding or non-binding arbitration. Whether they elect binding or non-binding arbitration, the parties may construct or select a set of rules to govern the process. The agreement to arbitrate must state what rules govern. If the parties elect binding arbitration, and their agreement to arbitrate is otherwise silent, the arbitration will be deemed to be conducted pursuant to Minnesota Statutes, section 572.08 *et seq.* ("Uniform Arbitration Act"). If they elect non-binding arbitration, and their agreement is otherwise silent, they shall conduct the arbitration pursuant to Rule 114.09, subsections (b)-(f). Parties are free, however, to contract to use provisions from both processes or to modify the arbitration procedure as they deem appropriate to their case.

(b) Evidence.

(1) Except where a party has waived the right to be present or is absent after due notice of the hearing, the arbitrator and all parties shall be present at the taking of all evidence.

(2) The arbitrator shall receive evidence that the arbitrator deems necessary to understand and determine the dispute. Relevancy shall be liberally construed in favor of admission. The following principles apply:

(i) *Documents.* If copies have been delivered to all other parties at least 10 days prior to the hearing, the arbitrator may consider written medical and hospital reports, records, and bills; documentary evidence of loss of income, property damage, repair bills or estimates; and police reports concerning an accident which gave rise to the case. Any other party may subpoena as a witness the author of a report, bill, or estimate, and examine that person as if under cross-examination. Any repair estimate offered as an exhibit, as well as copies delivered to other parties, shall be accompanied by a statement indicating whether or not the property was repaired. If the property was repaired, the statement must indicate whether the estimated repairs were made in full or in part and must be accompanied by a copy of the receipted bill showing the items repaired and the amount paid. The arbitrator shall not consider any police report opinion as to ultimate fault. In family law matters, the arbitrator may consider property valuations, business valuations, custody reports and similar documents.

(ii) *Other Reports.* The written statement of any other witness, including written reports of expert witnesses not enumerated above and statements of opinion which the witness would be qualified to express if testifying in person, shall be received in evidence if: (1) copies have been delivered to all other parties at least 10 days prior to the hearing; and (2) no other party has delivered to the proponent of the evidence a written demand at least 5 days before the hearing that the witness be produced in person to testify at the hearing. The arbitrator shall disregard any portion of a statement received pursuant to the

rule that would be inadmissible if the witness were testifying in person, but the inclusion of inadmissible matter does not render the entire statement inadmissible.

(iii) *Depositions.* Subject to objections, the deposition of any witness shall be received in evidence, even if the deponent is not unavailable as a witness and if no exceptional circumstances exist, if: (1) the deposition was taken in the manner provided for by law or by stipulation of the parties; and (2) fewer than 10 days prior to the hearing, the proponent of the deposition serves on all other parties notice of the intention to offer the deposition in evidence.

(iv) *Affidavits.* The arbitrator may receive and consider witness affidavits, but shall give them only such weight to which they are entitled after consideration of any objections. A party offering opinion testimony in the form of an affidavit, statement, or deposition, shall have the right to withdraw such testimony, and attendance of the witness at the hearing shall not then be required.

(3) Attorneys must obtain subpoenas for attendance at hearings through the court administrator, pursuant to Minn. R. Civ. P. 45. The party requesting the subpoena shall modify the form of the subpoena to show that the appearance is before the arbitrator and to give the time and place set for the arbitration hearing. At the discretion of the arbitrator, nonappearance of a properly subpoenaed witness may be grounds for an adjournment or continuance of the hearing. If any witness properly served with a subpoena fails to appear or refuses to be sworn or answer, the court may conduct proceedings to compel compliance.

(c) Powers of Arbitrator. The arbitrator has the following powers:

- (1) to administer oaths or affirmations to witnesses;
- (2) to take adjournments upon the request of a party or upon the arbitrator's initiative;
- (3) to permit testimony to be offered by deposition;
- (4) to permit evidence to be introduced as provided in these rules;
- (5) to rule upon admissibility and relevance of evidence offered;
- (6) to invite the parties, upon reasonable notice, to submit pre-hearing or post-hearing briefs or pre-hearing statements of evidence;
- (7) to decide the law and facts of the case and make an award accordingly;
- (8) to award costs, within statutory limits;
- (9) to view any site or object relevant to the case; and
- (10) any other powers agreed upon by the parties.

(d) Record.

- (1) No record of the proceedings shall be made unless permitted by the arbitrator and agreed to by the parties.
- (2) The arbitrator's personal notes are not subject to discovery.

(e) The Award.

- (1) No later than 10 days from the date of the arbitration hearing or the arbitrator's receipt of the final post-hearing memorandum, whichever is later, the arbitrator shall file with the court the decision, together with proof of service on all parties by first class mail or other method of service authorized by the rules or ordered by the court.
- (2) If no party has filed a request for a trial within 20 days after the award is filed, the court administrator shall enter the decision as a judgment and shall promptly transmit notice of entry of judgment to the parties. The judgment shall have the same force and effect as, and is subject to all provisions of law relating to, a judgment in a civil action or proceeding, except that it is not subject to appeal, and may not be attacked or set aside. The judgment may be enforced as if it had been rendered by the court in which it is entered.

(3) No findings of fact, conclusions of law, or opinions supporting an arbitrator's decision are required.

(4) Within 90 days after its entry, a party against whom a judgment is entered pursuant to an arbitration award may move to vacate the judgment on only those grounds set forth in Minnesota Statutes, chapter 572.

(f) Trial after Arbitration.

(1) Within 20 days after the arbitrator files the decision with the court, any party may request a trial by filing a request for trial with the court, along with proof of service upon all other parties. This 20-day period shall not be extended.

(2) The court may set the matter for trial on the first available date, or shall restore the case to the civil calendar in the same position as it would have had if there had been no arbitration.

(3) Upon request for a trial, the decision of the arbitrator shall be sealed and placed in the court file.

(4) A trial de novo shall be conducted as if there had been no arbitration.

(Added effective July 1, 1994; amended effective July 1, 1997; amended effective January 1, 2005; amended effective July 1, 2015.)

Implementation Committee Comment - 1993

The Committee made a conscious decision not to formulate rules to govern other forms of ADR, such as mediation, early neutral evaluations, and summary jury trials. There is no consensus among those who conduct or participate in those forms of ADR as to whether any procedures or rules are necessary at all, let alone what those rules or procedures should be. The Committee urges parties, judges and neutrals to be open and flexible in their conduct of ADR proceedings (other than arbitration), and to experiment as necessary, at some time in the future, to revisit the issues of rules, procedures or other limitations applicable to the various forms of court-annexed ADR.

Hennepin County and Ramsey County both have had substantial experience with arbitrations, and have developed rules of procedure that have worked well. The Committee has considered those rules, and others, in developing its proposed rules.

Subd. (a) of this rule is modeled after rules presently in use by the Second and Fourth Judicial Districts and rules currently in use by the American Arbitration Association.

Subd. (b) of this Rule is modeled after rules presently in use in the Second and Fourth Judicial Districts. In non-binding arbitration, the arbitrator is limited to providing advisory awards, unless the parties do not request a trial.

Subd. (c) of this Rule is modeled after rules presently in use in the Second and Fourth Judicial Districts. Records of the proceeding include records made by a stenographer, court reporter, or recording device.

Subd. (d) of this Rule is modeled after Rule 25 VIII of the Special Rules of Practice for the Second Judicial District.

Advisory Committee Comment - 1996 Amendment

The changes to this rule in 1996 incorporate the collective labels for ADR processes now recognized in Rule 114.02. These changes should clarify the operation of the rule, but should not otherwise affect its interpretation.

[For text of 114.10 to 114.14, see M.S. 2014, Volume 15]

Rule 115. Motion Practice

Rule 115.01 Scope and Application

This rule shall govern all civil motions, except those in family court matters governed by Minn. Gen. R. Prac. 301 through 379 and in commitment proceedings subject to the

Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Act.

(a) **Definitions.** Motions are either dispositive or nondispositive, and are defined as follows:

(1) Dispositive motions are motions which seek to dispose of all or part of the claims or parties, except motions for default judgment. They include motions to dismiss a party or claim, motions for summary judgment and motions under Minn. R. Civ. P. 12.02(a)-(f).

(2) Nondispositive motions are all other motions, including but not limited to discovery, third party practice, temporary relief, intervention or amendment of pleadings.

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

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

(Amended effective January 1, 1993; amended effective September 5, 2001; amended effective July 1, 2015.)

Rule 115.02 Obtaining Hearing Date; Notice to Parties

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

(Amended effective January 1, 1993; amended effective July 1, 2015.)

Rule 115.03 Dispositive Motions

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

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

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

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

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

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

(1) A statement by the moving party of the issues involved which are the grounds for the motion for summary judgment;

(2) A statement identifying all documents (such as depositions or excerpts thereof, pleadings, exhibits, admissions, interrogatory answers, and affidavits) which comprise the record on which the motion is made. Opposing parties shall identify in their responding Memorandum of Law any additional documents on which they rely;

(3) A recital by the moving party of the material facts as to which there is no genuine dispute, with a specific citation to that part of the record supporting each fact, such as deposition page and line or page and paragraph of an exhibit. A party opposing the motion shall, in like manner, make a recital of any material facts claimed to be in dispute; and

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

(Amended effective January 1, 1993; amended effective January 1, 2004; amended effective July 1, 2015.)

Rule 115.04 Non-dispositive Motions

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

(1) Notice of motion and motion;

(2) Proposed order;

(3) Any affidavits and exhibits to be submitted in conjunction with the motion; and

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

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

(1) Any memorandum of law the party intends to submit; and

(2) Any relevant affidavits and exhibits.

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

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

declarations or sworn affidavits are to be filed), prior to the conference to set forth their respective positions.

The court may, in its discretion, direct the manner of submission of the letters. The court will read the written submissions of the parties before the phone conference, hear arguments of counsel and self-represented litigants at the conference, and issue its decision at the conclusion of the phone conference or shortly after the conference. Depending on the nature of the dispute, the court may or may not issue a written order. The court may also determine that the dispute must be presented to the court via formal motion and hearing. Telephone conferences will not be recorded or transcribed.

(Amended effective January 1, 1993; amended effective January 1, 2004; amended effective July 1, 2013; amended effective July 1, 2015.)

[For text of 115.05, see M.S. 2014, Volume 15]

Rule 115.06 Failure to Comply

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

(Amended effective July 1, 2015.)

[For text of 115.07, see M.S. 2014, Volume 15]

Rule 115.08 Witnesses

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

(Amended effective July 1, 2015.)

[For text of 115.09 and 115.10, see M.S. 2014, Volume 15]

Rule 115.11 Motions to Reconsider

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

(Added effective January 1, 1998; amended effective July 1, 2015.)

Advisory Committee Comment - 1997 Amendment

This rule is derived primarily from Rule 15 of the Local Rules of the Seventh District. Provisions are also included from Rule 8 of the Local Rules of the Second District (2d Dist. R. 8(h)(1) & 8(j)(1)).

This rule is intended to create uniform motion practice in all districts of the state. The existing practices diverge in many ways. The inconsistent requirements of having a motion heard impose significant burdens on litigants and their counsel. The Task Force is confident that this new rule will make civil practice more efficient and fairer, consistent with the goals of the rules of civil procedure set forth in Minn. R. Civ. P. 1.

The rule applies to all motions except the timing provisions do not apply to post-trial motions. These motions are excepted because they are governed by other, stringent timing requirements. See Minn. R. Civ. P. 59.03 (motions for a new trial), 52.02 (amendment of findings), 50.02(c) (time for j.n.o.v. motion same as for new trial motion). Other post-trial

motions excluded from this rule include those relating to entry of judgment, stays, taxation of costs, and approval of supersedeas bonds. See Minn. R. Civ. App. P. 108.01, subdivision 1. These matters are routinely and necessarily heard on shorter notice than that required by the rule.

*The time limits set forth in this rule were arrived at after extensive discussion. The Task Force attempted to balance the needs of the courts to obtain information on motions sufficiently in advance of the hearing to permit judicial preparation and the needs of counsel and litigants to have prompt hearings after the submission of motions. The time limits for dispositive motions are admittedly longer than the 10-day requirement set forth in Minn. R. Civ. P. 56.03. The Task Force is of the view that these requirements are not necessarily inconsistent because the rules serve two different purposes. The civil procedure rule establishes a minimum notice period to the adversary, while this provision in the general rules of practice sets forth a standard to facilitate the court's consideration of the motions. The time requirements of this rule may be readily modified by the court, while the minimum notice requirements of Minn. R. Civ. P. 56.03 is mandatory unless waived by the parties themselves. See *McAllister v. Independent School District No. 306*, 276 Minn. 549, 149 N.W.2d 81 (1967). The time limits have been slightly modified from the Task Force's original to reflect the motion practice deadlines now established and followed in the federal court by Minnesota. The local rules of the United States District Court for the District of Minnesota were recently amended, effective Feb. 1, 1991. See Rule LR7.1 (b)(1) (D. Minn.) (moving papers for dispositive motions now due 28 days before hearing). The Task Force believes it is desirable to remove minor differences between state and federal court practice where no overriding purpose exists for the differences.*

The amendment to this rule in 1992 added an express provision for reply briefs. Reply briefs are now allowed for all motions, with the total page limits remaining unchanged. This change is appropriate because of the number of situations where truly new factual or legal matters are raised in response to a motion. In many cases, however, a reply brief will be unnecessary or, where no new matters are raised, inappropriate. The requirement that reply briefs be served and filed three days before the hearing contemplates actual delivery three days before the hearing is scheduled. If service or filing will be accomplished by mail, the deadline is three days earlier by operation of Minn. R. Civ. P. 5.02 & 6.05 and Minn. Gen. R. Prac. 115.01(b).

*The statements of facts required by this rule are made for the purpose of the then-pending motion only, and are not to be judicial admissions for other purposes. The Task Force modified the existing local rule in the seventh district to remove any provision that might suggest that summary judgment motions would be treated as defaults if the required statements of fact were not submitted or that might be interpreted to reduce the factual record for summary judgment motions from that specified in Minn. R. Civ. P. 56.05. This will avoid the conflict dealt with by the Minnesota Court of Appeals in *Bunkowske v. Briard*, 461 N.W.2d 392 (Minn. Ct. App. 1990). Counsel seeking to have the court consider matters located elsewhere in the court file will need to identify those materials in the statements of facts required by the rule, but will not have to refile the documents.*

*Rule 115.10 is a new requirement in the statewide rules, but is a familiar one to most lawyers. Many state and federal courts require parties to meet and confer in an attempt to resolve discovery disputes. See Second Dist. Rule 8(h); Fourth Dist. Rule 2.02; R. Haydock & D. Herr, *Discovery Practice* section 8.2 & n.3 (2d ed. 1988) (federal court local rules collected). The Task Force believes that it is reasonable and worthwhile to require informal efforts to attempt to resolve all motion disputes, not just discovery disputes. The Task Force also believes, however, that a rule requiring a face-to-face meeting in all situations would be unwise. This rule requires that some appropriate efforts be made to resolve motion disputes before hearing with the court, but does not specify a specific mechanism. In some instances, a face-to-face meeting will be productive; in other cases a short phone call will suffice to exhaust any possibility of resolution of the matter. The Task Force considered*

exempting dispositive motions from the requirements of the rule in view of the likely futility of conferring with adversaries over matters that would be dispositive, but determined that the effort expended in conferring in these matters is justified by the likely resolution or narrowing of some disputes or focusing of the dispute for judicial resolution.

Rule 115.02 is a new provision intended both to give parties notice of hearings in advance of the minimum required by other rules. It is intended primarily to prevent a party from obtaining a hearing date and time weeks in advance of a hearing but then delaying giving notice until shortly before the hearing. This practice appears to give an unnecessary tactical advantage to one side. Additionally, by requiring that more than the minimum notice be given in many cases, it will be possible for the responding parties to set on for hearing any additional motions they may have. This may result in the more efficient hearing of multiple motions on a single hearing date.

The definitions of "dispositive" and "nondispositive" motions should be fairly easy to follow in practice. The definitions are similar to those used in Minnesota federal court practice, see Local Rule 4 (D. Minn.), reprinted in Minn. Rules of Ct. 885-86 (West, 1990). Federal court practice treats motions for interlocutory injunctive relief as dispositive because these matters are heard with other dispositive motions before judges rather than magistrates, but there is no reason to treat these motions as dispositive in state-court practice. Indeed, most such motions in state court are heard on expedited schedules set at the time of initial appearance.

The language of rule 115.06 permits the court, but does not require it, to strike a motion where the rule is not followed. The permissive language is included to make it clear the court retains the discretion to hear matters even if the rules have been ignored, but should not be viewed as suggesting that the court needs to provide a hearing on whether such a motion will be stricken. Courts may administratively provide that hearings on motions not served and filed in accordance with the rule will be automatically or routinely canceled.

The Task Force considered the adoption of the Seventh District's rule that called for the trial judge to "make every effort" to rule on nondispositive motions on the day of hearing and dispositive motions within 30 days of hearing. Seventh Dist. R. 15(8). That provision was adopted as part of the revision of motion practice in that district whereby earlier briefing was required with the expected result of earlier decision. Although the purpose of that rule is laudable, the Task Force decided it is not good practice to adopt rules that are purely hortatory in nature, and do not impose any specific requirements or standards. Nonetheless, the Task Force hopes that those benefits of early briefing will flow from the proposed changes on a statewide basis. The Task Force also noted that a statute governs the outer limits of the time for decision. See Minnesota Statutes 1990, section 546.27, subdivision 1 (establishing 90-day period for decision).

Rule 115.09 has been amended to make it clear that telephone hearings may not be recorded unofficially by one party. This rule is consistent with the broader mandate of Minn. Gen. R. Prac. 4 which prohibits pictures or voice recordings except if taken as the official record for matters that are heard in court rather than by phone.

Rule 115.11 is added to establish an explicit procedure for submitting motions for reconsideration. The rule permits such motions only with permission of the trial court. The request must be by letter, and should be directed to the judge who issued the decision for which reconsideration is sought. The rule is drawn from a similar provision in the Local Rules of the United States District Court for the District of Minnesota. The rule is intended to remove some of the uncertainty that surrounds use of these motions in Minnesota, especially after the Minnesota Court of Appeals decision in *Carter v. Anderson*, 554 N.W.2d 110 (Minn. Ct. App. 1996). See Eric J. Magnuson, *Motions for Reconsideration*, 54 Bench & Bar of Minn., July 1997, at 36.

Motions for reconsideration play a very limited role in civil practice, and should be approached cautiously and used sparingly. It is not appropriate to prohibit them, however, as they occasionally serve a helpful purpose for the courts. Counsel should understand that

although the courts may have the power to reconsider decisions, they rarely will exercise it. They are likely to do so only where intervening legal developments have occurred (e.g., enactment of an applicable statute or issuance of a dispositive court decision) or where the earlier decision is palpably wrong in some respect. Motions for reconsideration are not opportunities for presentation of facts or arguments available when the prior motion was considered. Motions for reconsideration will not be allowed to "expand" or "supplement" the record on appeal. See, e.g., Sullivan v. Spot Weld, Inc., 560 N.W.2d 712 (Minn. App. 1997); Progressive Cos. Ins. Co. v. Fiedler, 1997 WL 292332 (Minn. App. 1997) (unpublished). Most importantly, counsel should remember that a motion for reconsideration does not toll any time periods or deadlines, including the time to appeal. See generally 3 Eric J. Magnuson & David F. Herr, Minnesota Practice: Appellate Rules Annotated, section 103.17 (3rd ed. 1996, Supp. 1997).

(Amended 1993; 1996; 1998.)

Advisory Committee Comment - 2003 Amendment

The rule is amended in 2003 to include a reference to the requirement for paying a motion filing fee. A new statute in 2003 imposes a fee for "[f]iling a motion or response to a motion in civil, family, excluding child support, and guardianship case." See Minnesota Laws 2003, First Special Session chapter 2, article 2, section 2, to be codified at Minnesota Statutes, section 357.021, subdivision 2, clause (4).

Rule 119. Applications for Attorney Fees

[For text of 119.01, see M.S. 2014, Volume 15]

Rule 119.02 Required Documents

The motion shall be accompanied by an affidavit of any attorney of record which establishes the following:

1. A description of each item of work performed, the date upon which it was performed, the amount of time spent on each item of work, the identity of the lawyer or legal assistant performing the work, and the hourly rate sought for the work performed;
2. The normal hourly rate for each person for whom compensation is sought, with an explanation of the basis for any difference between the amount sought and the normal hourly billing rate, if any;
3. A detailed itemization of all amounts sought for disbursements or expenses, including the rate for which any disbursements are charged and the verification that the amounts sought represent the actual cost to the lawyer or firm for the disbursements sought; and
4. That the affiant has reviewed the work in progress or original time records, the work was actually performed for the benefit of the client and was necessary for the proper representation of the client, and that charges for any unnecessary or duplicative work has been eliminated from the application or motion.

(Amended effective January 1, 1998; amended effective July 1, 2015.)

[For text of 119.03 to 119.05, see M.S. 2014, Volume 15]

Advisory Committee Comment - 1997 Amendment

This rule is intended to establish a standard procedure for supporting requests for attorney fees. The committee is aware that motions for attorney fees are either not supported by any factual information or are supported with conclusionary, non-specific information that is not sufficient to permit the court to make an appropriate determination of the appropriate amount of fees. This rule is intended to create a standard procedure only; it neither expands nor limits the entitlement to recovery of attorneys' fees in any case.

*Where fees are to be determined under the "lodestar" method widely used in the federal courts and adopted in Minnesota in *Specialized Tours, Inc. v. Hagen*, 392 N.W.2d 520, 542-43 (Minn. 1986), trial courts need to have information to support the reasonableness*

of the hours claimed to be expended as well as the reasonable hourly rate under the circumstances. This rule is intended to provide a standard set of documentation that allows the majority of fee applications to be considered by the court without requiring further information. The rule specifically acknowledges that cases involving complex issues or serious factual dispute over these issues may require additional documentation. The rule allows the court to require additional materials in any case where appropriate. This rule is not intended to limit the court's discretion, but is intended to encourage streamlined handling of fee applications and to facilitate filing of appropriate support to permit consideration of the issues.

This rule also authorizes the court to review the documentation required by the rule in camera. This is often necessary given the sensitive nature of the required fee information and the need to protect the party entitled to attorney fees from having to compromise its attorney's thoughts, mental impressions, or other work product in order to support its fee application. As an alternative to permitting in camera review by the trial judge, the court can permit submission of redacted copies, with privileged material removed from all copies.

*The amendment in 1997, adding the exceptions to the requirements of the rule for certain probate and trust proceedings, is designed to obviate procedures that serve no purpose for the courts and unduly burden the parties. Probate and trust matters have separate statutes and case law relating to attorney fees. See Minnesota Statutes, sections 524.3-721 and 525.515; *In re Great Northern Iron Ore Properties*, 311 N.W.2d 488 (Minn. 1981) and *In re Living Trust Created by Atwood*, 227 Minn. 495, 35 N.W.2d 736 (1949). In probate and trust matters, if no interested party objects to the attorney fees, there is ordinarily no reason for the court to require the detail specified in Rule 119. In contested matters, however, such detail may be appropriate to enable the court to resolve the matter under the standards of applicable probate and trust law. The court may protect the sensitive and confidential information that may be contained in attorney time records by entering an appropriate order in a particular case. Similarly, the exemption of these cases from the requirements of the rule does not prevent the court from requiring any of the fee application documentation in a particular matter.*

(amended 1997; 1998; 2005.)

Advisory Committee Comment - 2003 Amendment

Rule 119.05 is a new rule to establish a streamlined procedure for considering attorney fees on matters that will be heard by default. The rule does not apply to situations other than default judgments, such as motions to compel discovery, motions to show cause, sanctions matters, or attorney fees in contested matters. This subsection is modeled on a rule adopted by the Fourth Judicial District and implemented as a local standing order. A simpler procedure for defaults is appropriate and will serve to conserve judicial resources, and it is appropriate to have a uniform rule throughout Minnesota.

New Form 119.05 is intended to provide useful information to the defaulting party and some care has gone into its drafting. Although use of the form is not required, the requirement that any notice conform "substantially" to the form should be heeded. The committee has attempted to use language that fairly advises the defaulting party of the procedure under Rule 119.05 without threatening consequences or confusing the defaulting party on the effect of either contesting or not contesting the fee award. The rule requires that notice be given after the defendant has defaulted. Notice given earlier is not effective to comply with the rule, as such notice is likely to confuse the recipient as to the differing procedures and timing for response to the Summons and responding to the request for fees. An affidavit detailing the basis for the award as required under Rule 119.02 must accompany the notice and the form.

The rule does not affect the amounts that may be recovered for attorney fees; it allows either side to obtain a hearing on the request for fees; the rule supplies an efficient mechanism for the numerous default matters where a full hearing is not required. Similarly, the

rule does not remove the requirement that a party seeking fees file a motion; it simply provides a mechanism for resolution of some motions without formal hearings.

(amended 2005.)

Advisory Committee Comment - 2004 Adoption

Rule 119.05 was amended in 2004 in a single way: to make it clear that the mechanism for streamlined approval of attorney fees in default matters is also available for matters proceeding pursuant to confession of judgment, even if not technically a default. Confessions of judgment are authorized and limited by Minnesota Statutes 2002, section 548.22, but that statute does not address how attorney fee requests that accompany confessions of judgment should be heard. Because the rule both allows streamlined entry of a judgment for attorney fees and provides procedural protection to the judgment debtor, the committee believes it is appropriate to apply this procedure to judgments pursuant to confession.

Advisory Committee Comment - 2008 Amendment

Rule 119.05 is amended to remove Form 119.05 from the rules, and to permit the maintenance and publication of the form by the state court administrator. The form, together with other court forms, can be found at <http://www.mncourts.gov/>.

Rule 121. Notice of Settlement

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

Cross Reference: Minn. R. Civ. P. 40, 41.

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This rule is based on 2d Dist. R.9(a). Other districts have similar rules. This new rule, derived from current local rule provisions, makes explicit what courts now expect and which common courtesy requires.

Rule 129. Use of Administrator's Files

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

Cross Reference: Minn. R. Civ. P. 77; Minn. Civ. Trialbook, sections 13, 14.

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This rule is derived from Rule 12(b) of the Code of Rules for the District Courts, without substantial change.

Rule 131. Use of Interactive Video Teleconference in Civil Cases

[For text of 131.01 and 131.02, see M.S. 2014, Volume 15]

Rule 131.03 Costs and Arrangements; Certification

(a) Costs. The party or parties, other than the court, requesting use of ITV for any hearing or proceeding shall be responsible for any additional use or other fees over and above those normally incurred by the venue county in connecting from one court site to another court site within the district or collaboration area.

(b) Arrangements. If the court on its own initiative orders ITV, the court shall, through the court administrator where the case is venued, establish and make arrangements to carry out the ITV procedures required in order for the court to hear the case as an ITV hearing or proceeding. In all other cases it will be the responsibility of the party requesting the use of ITV to contact the court administrator where the case is venued who shall, working with

the judge assigned, establish a hearing date and time so that the case may be scheduled as an ITV hearing or proceeding. The court and counsel shall use reasonable efforts to confer with one another in scheduling ITV hearings or proceedings so as not to cause, delay or create scheduling conflicts.

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

(d) Certification. By signing a stipulation or motion for use of ITV, a person certifies that the use of ITV will be in accordance with the provisions of this rule, including, without limitation, the requirement in Rule 131.06(i) that no recording shall be made of any ITV proceeding except the recording made as the official court record.

(Added effective March 1, 2009; amended effective July 1, 2015.)

[For text of 131.04 and 131.05, see M.S. 2014, Volume 15]

Rule 131.06 Proceedings

In any proceeding conducted by ITV under this rule:

(a) Parties entitled to be heard shall be given prior notice of the manner and time of the hearing or proceeding.

(b) Witnesses may testify by ITV at all hearings, including contested matters.

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

(d) The court administrator of the venue county will keep court minutes and maintain court records as if the proceeding were heard in person.

(e) All proceedings held by ITV will be governed by the Minnesota Rules of Civil Procedure, the General Rules of Practice and state law, except as herein provided. Courtroom decorum during ITV hearings will conform to the extent possible to that required during traditional court proceedings.

(f) A sheriff, sheriff's deputy, bailiff or other licensed peace officer shall be present at each ITV site for the purpose of maintaining order, as the court deems necessary.

(g) The court shall ensure that each party has adequate opportunity to speak privately with counsel, including, where appropriate, suspension of the audio transmission and recording or allowing counsel to leave the conference table to communicate with the client in private.

(h) Judges may continue any hearing that cannot proceed due to ITV equipment problems or failure, unless other arrangements to proceed with the hearing are agreed upon by all parties.

(i) No recording shall be made of any ITV proceeding except the recording made as the official court record. This Rule 131 does not supersede the provisions of the Minnesota Rules of Public Access to Records of the Judicial Branch.

(Added effective March 1, 2009; amended effective July 1, 2015.)

Rule 131.07 Administrative Procedures

The following administrative procedures are applicable to all ITV proceedings:

(a) Off-Camera Presence. During a hearing conducted by ITV, all off-camera persons at any participating ITV terminal site must be identified for the record. This shall not apply to members of the public located in general public seating areas of any courtroom.

(b) Court Administrator Duties. The court administrator for each county shall be responsible for the following:

(1) Ensure that the ITV equipment is ready and functioning properly in advance of any ITV hearing, so that there will be no interference with the punctual commencement of a hearing.

(2) Provide participants an opportunity to become familiar with use of the ITV equipment and courtroom procedure prior to commencement of the hearing.

(3) Set ITV system configuration as designated by the presiding judge. The presiding judge shall consider the objections or concerns of any party.

(4) Monitor audio and video quality, making adjustments and providing technical assistance throughout the hearing as necessary.

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

(6) Be familiar with problem management procedures, including steps to be taken in performing initial problem determination, identity and location of individual(s) who should be contacted if initial problem/resolution attempts fail, and service call placement procedures.

(c) Technical Standards. The following technical standards should be followed:

(1) To optimize picture clarity, the room should have diffused lighting and window shades to block external light.

(2) To optimize viewing, monitors should be placed in a darkened area of the room and be of sufficient size and number to allow convenient viewing by all participants.

(3) Cameras and microphones should be sufficient in number to allow video and audio coverage of all participants, prevent crowding of participants, facilitate security, and protect confidential communications.

(4) Audio and visual must be synchronized and undistorted.

(5) All hearing participants should speak directly into their microphones.

(Adopted effective March 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

In October 1999 the Supreme Court informally approved the use of ITV in civil cases but did not adopt any specific rules. The addition of Rule 131 in 2008 is intended to provide a uniform procedure permitting the use of interactive video conferencing (ITV) to conduct hearings and admit oral testimony in civil cases. It is based on protocols developed and implemented for a pilot project in the Ninth Judicial District and later tweaked by a subcommittee of the Court's former Technology Planning Committee. The success of the pilot project is reported in NATIONAL CENTER FOR STATE COURTS, COURT SERVICES DIVISION, ASSESSMENT OF THE INTERACTIVE TELEVISION PROGRAM IN THE NINTH JUDICIAL DISTRICT OF MINNESOTA (Sept. 1999).

Rule 131.02 identifies the situations in which the district court may authorize the use of ITV by order: upon the court's own initiative, upon stipulation by the parties, or upon a showing of good cause. The court as part of its overall case management practice initiated the bulk of the orders in the Ninth Judicial District pilot project. It is anticipated that use of ITV will vary by district, depending on factors such as geographical size and the nature of the cases.

Rule 131.02(b) recognizes that when a court orders the use of ITV on its own initiative, the court must notify the parties of the use of ITV. Notices are to be in accordance with rules of civil procedure and the general rules of practice. Once an order is filed, Minn. R. Civ. P. 77.04 requires the court administrator to serve notice of the order immediately by mail, and Minn. Gen. R. Prac. 1.03 requires that service be made on a party's attorney if represented, otherwise on the party directly. The notice of ITV use may also be incorporated

into a scheduling order issued under Minn. Gen. R. Prac. 11.03. Regardless of the precise mechanism, the notice of ITV use must include the information required in Rule 131.02(b). A sample notice is set forth for publication by the state court administrator.

Parties may, subject to court approval, stipulate to the use of ITV under Rule 131.02(c). Upon reaching a stipulation, the parties must contact the court administrator as soon as possible to obtain a date and time for the ITV hearing. Failure to provide adequate lead time may result in rejection of the stipulation. The parties are responsible for making arrangements to use any site that is outside the control of the court in the venue county. Parties should be aware that use of court and other governmental terminal sites might be subject to collaboration agreements entered into between courts and other government agencies. This may limit the availability of, or control the costs of using or accessing certain terminal sites, particularly those outside the county or district where the action is venued or outside the state's dedicated MNET network. Under Rule 131.03 parties requesting use of ITV for any hearing or proceeding are responsible for any additional use or other fees over and above those normally incurred by the venue county in connecting from one collaboration site to another. Parties are also responsible for ensuring compatibility of equipment for sites outside the control of the venue county.

Finally, a written, signed stipulation in the format substantially similar to the form appended to the rule must be filed with the court no later than twenty-four (24) hours prior to the hearing. By signing the stipulation the parties certify that they will follow the protocol, including, without limitation, the requirement in Rule 131.06(i) that no recording shall be made of the ITV proceeding except a recording made as the official record of the proceeding. Access to recordings of proceedings is governed by Rule 4, subdivision 3, of the RULES OF PUBLIC ACCESS TO RECORDS OF THE JUDICIAL BRANCH.

Rule 131.02(d) sets forth requirements for requesting ITV use when there is no stipulation by the parties. A formal motion is required, and it must be served and filed at least seven days prior to the scheduled hearing or proceeding for which ITV use is requested. The rule authorizes *ex parte* contact with the court for purposes of obtaining an expedited hearing date on the motion for use of ITV. See Minn. Gen. R. Prac. 115.04 (non-dispositive motions normally must be served and filed at least 14 days in advance of the hearing). The moving party is responsible under Rule 131.03 for making arrangements to use any site that is outside the control of the court in the venue county, for providing the necessary contact information to the court administrator, for ensuring the compatibility of the equipment, and paying any additional costs incurred by the court in facilitating the ITV session. The motion must also include or be accompanied by a notice informing opposing parties of their right to object, consequences of failure to object, requirements for exchange of information, and prohibitions on recording an ITV session (a sample notice is provided for publication by the state court administrator).

Objections to a motion for use of ITV must be made prior to the hearing on the motion. The failure of an opposing party to object may be considered along with other factors set forth in Rule 131.02(d)(4) that may determine good cause for use of ITV. The moving party has the burden of establishing good cause.

Rule 131.02(d)(5) permits the court to shorten the time periods provided for in Rule 131.02 in emergent circumstances upon a proper showing. As of the time of the drafting of this commentary, a different time period is established for requesting ITV use in commitment cases under Rule 14 of the SPECIAL RULES OF PROCEDURE UNDER THE MINNESOTA COMMITMENT AND TREATMENT ACT (requires notice to the other party at least 24 hours in advance of the hearing, and court approval). The drafting committee is of the opinion that following the protocol with the ability to shorten the time frames when necessary will be sufficient to address the needs of commitment and other matters covered by this rule.

Rule 131.03 places responsibility for costs and site arrangements with those seeing to use ITV. The court assumes this responsibility when ordering ITV on its own initiative, as is

done for the bulk of the ITV proceedings in the Ninth Judicial District pilot project. When a party or parties initiate the request, however, Rules 131.02(c) and 131.02(d) shift some of the responsibility to the requesting party or parties. Parties also certify that they will comply with the protocol, including the prohibition in Rule 131.06(i) against recording ITV sessions.

Rule 131.04 attempts to highlight an important logistical requirement when ITV is used. Documents and other information need to be exchanged and submitted to the court, where appropriate, prior to the ITV session. This is particularly important when the parties are located at different sites.

Rule 131.07(b) recognizes that ITV use imposes new logistical duties on court administration staff. This section is intended to assist courts as they implement ITV use and to train new staff.

*Rules 131.05-.07 set forth the ground rules for conducting ITV sessions. The prohibition on recording ITV sessions set forth in Rule 131.06(i) and echoed throughout the rule is identical to that applicable to telephone hearings under Minn. Gen. R. Prac. 115.09. This requirement is consistent with the directives of the Supreme Court regarding use of cameras in the courtroom. See *In re Modification of Section 3A(10) of the Minnesota Code of Judicial Conduct*, No. C7-81-300 (Minn. S. Ct., filed Jan. 11, 1996) (order reinstating experimental program for audio and video coverage of trial court proceedings); *Order for Interactive Audio-Video Communications Experiment in First Judicial District-Mental Illness Commitment Proceedings*, No. C6-90-649 (Minn. S. Ct., filed April 5, 1995); *Order re Interactive Audio-Video Communications Pilot Program in Third Judicial District Mental Illness Commitment Proceedings*, No. C6-90-649 (Minn. S. Ct., filed Jan. 29, 1999); *Order for Interactive Audio and Video Communications, Fourth Judicial District, Mental Health Division, Price and Jarvis Proceedings*, No. C6-90-649 (Minn. S. Ct., filed April 8, 1991).*

Rule 131.05(c) requires that counsel and their party must be present at the same terminal site unless otherwise permitted by the court. In commitment cases, court rules do not permit counsel for the patient and the patient to be present at different sites. See Rule 14 of the Special Rules of Procedure Under the Minnesota Commitment and Treatment Act. Witnesses and other participants may be located at any terminal site that allows satisfactory video and audio reception.

Rule 131.07(c) describes equipment and room standards in functional terms. A more detailed discussion of technical issues and terminology can be found in STATEWIDE VIDEOCONFERENCING COMMITTEE, BRIDGING THE DISTANCE: IMPLEMENTING VIDEOCONFERENCING IN WISCONSIN (10/30/2007) (a dynamic document that is continually updated and that is currently available for download from the Wisconsin Supreme Court Web site, located at <http://www.wicourts.gov/about/committees/ppacvid-conf.htm>).

Rule 141. Condemnation

[For text of 141.01, see M.S. 2014, Volume 15]

Rule 141.02 Notice of Appeal

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

(Amended effective January 1, 1993; amended effective July 1, 2015.)

Advisory Committee Comment - 1992 Amendment

This rule is derived from 4th Dist. R. 10 and is intended to supplement statutes providing for the appointment of commissioners and the filing of a notice of appeal. See Minnesota Statutes, sections 117.075 and 117.145 (1990).

Rule 141.02 as amended in 1992 establishes that the appeal from the award of the commissioners, not any earlier proceedings relating to appointment of commissioners or a "quick take" of the property, triggers the scheduling requirements of Rules 104 and 111.

Rule 146. Complex Cases

[For text of 146.01, see M.S. 2014, Volume 15]

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 countries, 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 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.

(Amended effective July 1, 2015.)

[For text of 146.03, see M.S. 2014, Volume 15]

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

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

(Amended effective July 1, 2015.)

[For text of 146.05, see M.S. 2014, Volume 15]

Section 14. Sealing and Handling of Confidential Exhibits

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

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

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

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

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

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

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

Cross Reference: Minn. R. Civ. P. 26.03, 43, 77; Minn. Gen. R. Prac. 128, 129.

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This section is derived from existing Trialbook paragraph 47. For a discussion of balancing tests applicable to requests to seal documents, see Minneapolis Star & Tribune Co. v. Schumacher, 392 N.W.2d 197, 202-206 (Minn. 1986).

Rule 206. Documents to be Filed-Effect of Notice and Appearance

A defendant who appears or files an answer, and who also serves a copy on the applicant or the applicant's lawyer, shall be entitled to notice of all subsequent proceedings in that action.

(Amended effective July 1, 2015.)

Rule 208. Hearings in Default Cases-Filing Documents

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

(Amended effective July 1, 2015.)

Rule 303. Motions; Emergency Relief; Orders to Show Cause**Rule 303.01 Scheduling of Motions**

(a) Notice of Obtaining Hearing Date. Except in cases in which the parties reside in the same residence and there is a possibility of abuse, a party who obtains a date and time for hearing a motion shall promptly give written notice of the hearing date and time, name of the judicial officer, if known, and the primary issue(s) to be addressed at the hearing to all parties in the action. If the parties reside in the same residence and there is a possibility of abuse, notice shall be given in accordance with the Minnesota Rules of Civil Procedure.

(b) Notice of Motion. All motions shall be accompanied by either an order to show cause in accordance with Minn. Gen. R. Prac. 303.05 or by a notice of motion which shall state, with particularity, the date, time, and place of the hearing and the name of the judicial officer if known, as assigned by the local assignment clerk.

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

The Rules establish deadlines for responding to motions. All responsive pleadings shall be served and filed with the court administrator no later than five days prior to the scheduled hearing. The court may, in its discretion, disregard any responsive pleadings served or filed with the court administrator less than five days prior to such hearing in ruling on the motion or matter in question.

(Amended effective May 1, 2012; amended effective July 1, 2015.)

Family Court Rules Advisory Committee Commentary*

The scheduling of cases and the assignment of judges, judicial officers or referees is often a situation in which local calendaring practices prevail. Effective disposition of litigation requires immediate notice of the hearing officer's identity to preclude last minute filing of notices to remove or affidavits of prejudice.

**Original Advisory Committee Comment-Not kept current.*

Task Force Comment - 1991 Adoption

Subdivision (a)(1) of this rule is derived from existing Rule 2.01 of the Rules of Family Court Procedure.

Subdivision (a)(2) is from the new Minn. Gen. R. Prac. 115.02. It is intended primarily to prevent a party from obtaining a hearing date and time weeks in advance of a hearing but then delaying giving notice until shortly before the hearing. This practice appears to give an unnecessary tactical advantage to one side. Additionally, by requiring that more than the minimum notice be given in many cases, it will be possible for the responding parties to set on for hearing any additional motions they may have. This may result in the more efficient hearing of multiple motions on a single hearing date.

Subdivision (b) of this rule is derived from Second Judicial District Rule 2.011.

Advisory Committee Comment - 2012 Amendment

Rule 303.01 imposes a simple burden on any party, whether or not represented by counsel: to promptly advise the other parties when a hearing date is obtained from the court. The rule codifies common courtesy, but also serves specific purposes of reducing the need

to reschedule motion hearings and permitting the other side to submit motions at the same hearing, if appropriate. "Promptly" is intentionally not rigidly defined, but notice should be sent the same day the hearing date is obtained. Notice of the assignment of a judicial officer also starts the time to remove an assigned judicial officer under Minn. R. Civ. P. 63.03 and Minnesota Statutes, section 542.16.

The Rule exempts a party from giving prior notice if there is a "possibility of abuse" and where the two parties share the same residence. This admittedly subjective standard is retained in the rule for the protection of victims of domestic violence. The trial court retains the authority to impose sanctions for the improper use of this exception.

Rule 303.02 Form of Motion

(a) Specificity and Supporting Documents. Motions shall set out with particularity the relief requested in individually numbered paragraphs. All motions must be supported by affidavits that contain facts relevant to the issues before the court.

(b) Temporary Relief. When temporary financial relief such as child support, maintenance, payment of debt and attorney's fees is requested, the Parenting/Financial Disclosure Statement form developed by the state court administrator shall be served and filed by the moving and responding parties, along with their motions and affidavits. Sanctions for failure to comply include, but are not limited to, the striking of pleadings or hearing.

(Amended effective January 1, 2008; amended effective May 1, 2012; amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

Subdivision (a) of this rule is derived from existing Rule 2.02 of Rules of Family Court Procedure.

Subdivision (b) of this rule is derived from Second Judicial District Rule 2.021.

The local rule from which subdivision (b) is derived included a requirement that information be filed on forms, and that typewritten or word-processed documents would not be accepted for filing. The Task Force considered the desirability of requiring information to be submitted on pre-printed forms, and determined that such requirements should not be retained. Many modern law offices cannot readily prepare such documents as word processing machines have displaced the typewriters for which the forms are designed. The Task Force also believes that these requirements only increase the cost of litigation and limit access to the courts.

Rule 303.03 Motion Practice

(a) Requirements for Motions.

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

(i) Notice of motion and motion in the form required by Minn. Gen. R. Prac. 303.01 and 303.02;

(ii) Relevant affidavits and exhibits; and

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

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

(i) Notice of motion and motion in form required by Minn. Gen. R. Prac. 303.01 and 303.02;

(ii) Relevant affidavits and exhibits; and

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

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

(i) Any memorandum of law the party intends to submit; and

(ii) Relevant affidavits and exhibits.

(4) **Computation of Time for Service.** Whenever this rule requires documents to be served and filed with the court administrator within a prescribed period of time before a specific event, service and filing must be accomplished as required by Minn. R. Civ. P. 5 and 6.

(5) **Post-Trial Motions.** The timing provisions of Section 303.03(a) do not apply to post-trial motions.

(b) **Failure to Comply.** In the event a moving party fails to timely serve and file documents required in this rule, the hearing may be canceled by the court. If responsive documents are not properly served and filed, the court may deem the initial motion unopposed and may issue an order without hearing. The court, in its discretion, may refuse to permit oral argument by the party not filing the required documents, may consider the matter unopposed, may allow reasonable attorney's fees, or may take other appropriate action.

(c) **Settlement Efforts.** Except in parentage cases when there has been no court determination of the existence of the parent and child relationship, and except in situations where a court has ordered that no contact occur between the parties, the moving party shall, within 7 days of filing a motion, initiate a settlement conference either in person, or by telephone, or in writing in an attempt to resolve the issues raised. Unless ADR is not required under Rule 310, this conference shall include consideration of an appropriate ADR process under Rule 114. The moving party shall certify to the court compliance with this rule or any reasons for not complying. The moving party shall file a Certificate of Settlement Efforts in the form developed by the state court administrator not later than 24 hours before the hearing. Unless excused by the Court for good cause, no motion shall be heard unless the parties have complied with this rule. Whenever any pending motion is settled, the moving party shall promptly advise the court.

(d) Request for Oral Testimony.

(1) *General Rule.* Motions shall be submitted on affidavits, exhibits, documents subpoenaed to the hearing, memoranda, and arguments of counsel except for contempt proceedings or as otherwise provided for in these rules.

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

(3) *Request for Hearing Longer Than One-Half Hour.* Requests for hearing time in excess of one-half hour must be submitted by separate written motion specifically setting forth the necessity and reason that evidence cannot be submitted by affidavit.

(4) *Conversion to Prehearing Conference.* If the matter cannot be heard adequately in the scheduled time, the hearing shall be used as a prehearing conference.

(5) *Court Discretion to Solicit Oral Testimony.* If the request required by clause (2) of this rule has not been made, the court shall not take oral testimony at the scheduled hearing unless the court in its discretion solicits additional evidence from the parties by oral testimony.

(6) *Order*. In the event the court permits oral testimony, it may issue an order limiting the number of witnesses each party may call, the scope of their testimony, and the total time for each party to present evidence. Each party shall be afforded an opportunity to suggest appropriate limits.

(7) *Interviews of Minor Children*. Any motion relating to custody or visitation shall additionally state whether either party desires the court to interview minor children. No child under the age of fourteen years will be allowed to testify without prior written notice to the other party and court approval.

(Amended effective January 1, 1994; amended effective July 1, 1997; amended effective January 1, 2004; amended effective May 1, 2012; amended effective July 1, 2015.)

Family Court Rules Advisory Committee Commentary *

Minnesota Statutes, section 518.131, subdivision 8, grants a party the right to present oral testimony upon the filing of a demand either in the initial application for temporary relief or in the response thereto.

The party demanding oral testimony should provide a list of the proposed witnesses, the scope of their testimony and an estimate of the required time.

**Original Advisory Committee Comment-Not kept current.*

Advisory Committee Comment - 1996 Amendment

Subdivisions (a)-(d) of this rule are new. They are derived from parallel provisions in new Minn. Gen. R. Prac. 115, and are intended to make motion practice in family court matters as similar to that in other civil actions as is possible and practical given the particular needs in family court matters.

Subdivision (d) of this rule is derived from Rule 2.04 of Rules of Family Court Procedure and from Second Judicial District Rules 2.041 and 2.042.

The requirement in subsection (c) of an attempt to resolve motion disputes requires that the efforts to resolve the matter be made before the hearing, not before bringing the motion. It is permissible under the rule to bring a motion and then attempt to resolve the motion. If the motion is resolved, subsection (c) requires the parties to advise the court immediately.

Rule 303.03(a)(5) is added by amendment to be effective January 1, 1994, in order to make it clear that the stringent timing requirements of the rule need not be followed on post-trial motions. This change is made to continue the uniformity in motion practice between family court matters and general civil cases, and is patterned on the change to Minn. Gen. R. Prac. 115.01(c) made effective January 1, 1993.

Subdivision (c) of this rule is amended in 1996 to require consideration of ADR in post-decree matters. The rule specifies how ADR proceedings are commenced in post-decree matters; the procedures for court-annexed ADR in these matters is generally the same under Rule 114 as for other cases.

Advisory Committee Comment - 2003 Amendment

The rule is amended in 2003 to include a reference to the requirement for paying a motion filing fee. A new statute in 2003 imposes a fee for "filing a motion or response to a motion in civil, family, excluding child support, and guardianship case." See Minnesota Laws 2003, First Special Session chapter 2, article 2, section 2, to be codified at Minnesota Statutes, section 357.021, subdivision 2, clause (4).

Advisory Committee Comment - 2012 Amendment

Motion practice in family law matters is intended to mirror, where appropriate to the needs of family law issues, the procedures followed generally in civil cases in Minnesota courts. The prevailing practice in Minnesota courts is for the submission of evidence relating to motions by written submissions, with sworn testimony provided by affidavit, deposition, or other written submissions. Rule 303.03(d)(1) restates that rule. The balance

of Rule 303.03(d) addresses the process to request leave to present oral testimony in the limited circumstances where it may be appropriate. Minnesota Statutes, section 518.131, subdivision 8, provides for allowing oral testimony upon demand of a party in requests for a temporary order or restraining order.

Rule 303.03(a)(5) makes it clear that the stringent timing requirements of the rule need not be followed on post-trial motions, such as a motion for a new trial or for amended findings made shortly after the conclusion of trial. See Minn. R. Civ. P. 52 and 59. This change is made to continue the uniformity in motion practice between family court matters and general civil cases, and is patterned on Minn. Gen. R. Prac. 115.01(c). Support, spousal maintenance, and custody modification motions, often brought months or years later, are subject to the general timing rules for motions.

The requirement in subsection (c) of an attempt to resolve motion disputes requires that the efforts to resolve the matter be made before the hearing, not before bringing the motion. The rule requires the moving party to initiate settlement efforts. If the motion is resolved, subsection (c) requires the parties to advise the court immediately. Although mandated settlement efforts may create additional challenges for pro se parties, Rule 1.04 requires compliance with the rules by all parties, including pro se parties, subject to relief granted by the court to prevent a manifest injustice under Rule 1.02.

The rule explicitly addresses the requirement for paying a motion filing fee. Since 2003, Minnesota law requires a fee for "filing a motion or response to a motion in civil, family, excluding child support, and guardianship cases." See Minnesota Statutes, section 357.021, subdivision 2, clause (4).

[For text of 303.04 and 303.05, see M.S. 2014, Volume 15]

Rule 306. Default

Rule 306.01 Scheduling of Final Hearing

Except when proceeding under Rule 302.01(b) by Joint Petition, Agreement and Judgment and Decree, to place a marriage dissolution matter on the default calendar for final hearing or for approval without hearing pursuant to Minnesota Statutes, section 518.13, subdivision 5, the moving party shall submit a Default Scheduling Request form developed by the state court administrator and shall comply with the following, as applicable:

(a) Without Stipulation-No Appearance. In all default proceedings where a stipulation has not been filed, an Affidavit of Default and of Nonmilitary Status of the defaulting party or a waiver by that party of any rights under the Servicemembers Civil Relief Act, as amended, shall be filed with the court.

(b) Without Stipulation-Appearance. Where the defaulting party has appeared by a pleading other than an answer, or personally without a pleading, and has not affirmatively waived notice of the other party's right to a default hearing, the moving party shall notify the defaulting party in writing at least 14 days before the final hearing of the intent to proceed to Judgment. The notice shall state:

You are hereby notified that an application has been made for a final hearing to be held on _____, 20__, at ____:____m. at _____ [a date not sooner than 14 days from the date of this notice]. You are further notified that the court will be requested to grant the relief requested in the petition at the hearing. You should contact the undersigned and the District Court Administrator immediately if you have any defense to assert to this default judgment and decree.

The default hearing will not be held until the notice has been mailed to the defaulting party at the last known address and an affidavit of service by mail has been filed.

If the case is to proceed administratively without a hearing under Minnesota Statutes, section 518.13, subdivision 5, then the notice shall be sent after the expiration of the 30-day answer period, but at least 14 days before submission of a default scheduling request as required by this rule, and shall state:

You are hereby notified that an application will be made for a final judgment and decree to be entered not sooner than 14 days from the date of this notice. You are further notified that the court will be requested to grant the relief requested in the Petition. You should contact the undersigned and the District Court Administrator immediately if you have any defense to assert to this default judgment and decree.

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

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

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

(Amended effective January 1, 1993; amended effective January 1, 2004; amended effective January 1, 2006; amended effective January 1, 2008; amended effective May 1, 2012; amended effective July 1, 2015.)

Family Court Rules Advisory Committee Commentary*

This stipulation should establish that one of the parties may proceed as if by default, without further notice to or appearance by the other party.

The waiver of counsel should be prepared as an addendum following the parties' signatures on the stipulation.

**Original Advisory Committee Comment-Not kept current.*

Advisory Committee Comment - 1992 Amendment

Subsections (a) and (b) of this rule are derived from existing Rule 5.01 of the Rules of Family Court Procedure.

Subsection (c) of this rule is derived from existing Rule 5.02 of the Rules of Family Court Procedure.

The default scheduling request required by Rule 306.01, as amended in 1992, serves the purpose of permitting the court administrator's office to schedule the case for the right type of hearing. It is not otherwise involved in the merits. The affidavit of default is a substantive document establishing entitlement to relief by default.

Advisory Committee Comment - 2003 Amendment

Rule 306.01 is amended in 2003 to add a new first clause. The purpose of this change is to include in the rules an express exemption of the proceedings from the requirements of the rule when the parties proceed by Joint Petition, Agreement and Judgment and Decree as allowed by new Rule 302.01(b).

Advisory Committee Comment - 2006 Amendment

Rule 306 is amended to clarify the role of the notice required to be given to parties who are in default but who have "appeared" in some way. A party is not entitled to prevent entry of judgment if that party is in default by not serving and filing a timely written answer to the Petition. Nonetheless, the court may, in its discretion, consider some appropriate measures to prevent the case from being decided on a default basis and to obviate a motion for relief from the default judgment and decree. Accordingly, the rule is amended to afford more useful notice as to the request for a default.

The rule does not define how a party might appear either by "a pleading other than an answer," or "personally without a pleading." Both conditions should be limited to some actions that approach responding to the Petition despite the fact they may be insufficient as a matter of law to stand as a response. Sending a letter that responds to a Petition might suffice for the first condition, as might a letter to the court. Appearing at a court hearing

despite having not answered would certainly meet the "appeared personally" condition. When in doubt as to other circumstances, the party seeking a default should, to comply with Rule 306.01(b), provide the required notice, with the expectation that many of these responses that fall short of an answer will not prevent entry of judgment.

The Soldiers' and Sailors' Civil Relief Act of 1940 was amended and renamed in 2003, and the rule is amended to use the new name as a matter of convenience. See Servicemembers Civil Relief Act, Pub. L. No. 108-189, section 1, 117 Stat. 2835, 2840-42 (2003) (to be codified at 50 U.S.C. app. section 521). The former rule would still apply, however, because it included the "as amended" extension of the citation.

Advisory Committee Comment - 2012 Amendment

Rule 306 attempts to make clear the role of notice required to be given to parties who are in default but who have "appeared" in some way in marriage dissolution proceedings. A party is not entitled to prevent entry of judgment if that party is in default by not serving and filing a timely written answer to the Petition. Nonetheless, the court may, in its discretion, consider some appropriate measures to prevent the case from being decided on a default basis and to obviate a motion for relief from the default judgment and decree. Accordingly, the rule is amended to afford more useful notice as to the request for a default. Defaults in other types of family proceedings are governed by Rule 55 of the Minnesota Rules of Civil Procedure.

The rule does not define how a party might appear either by "a pleading other than an answer," or "personally without a pleading." Both conditions should be limited to actions that approach responding to the Petition despite the fact they may be insufficient as a matter of law to stand as a response. Sending a letter that responds to a Petition might suffice for the first condition, as might a letter to the court. Appearing at a court hearing despite having not answered would certainly meet the "appeared personally" condition. When in doubt as to other circumstances, the party seeking a default should, to comply with Rule 306.01(b), provide the required notice, with the expectation that many of these responses that fall short of an answer will not prevent entry of judgment.

[For text of 306.02, see M.S. 2014, Volume 15]

Rule 307. Final Hearings

(a) Failure to Appear-Sanctions. Failure to appear at the scheduled final hearing may result in the case being stricken from the contested calendar, granting of partial relief to the appearing party, striking of the nonappearing party's pleadings and the hearing of the matter as a default, an award of attorney's fees and costs, and such other relief as the court finds appropriate, without further notice to the defaulting party.

(b) Stipulations Entered in Open Court-Preparation of Findings. Where a stipulation has been entered orally upon the record, the lawyer directed to prepare the decree shall submit it to the court with a copy to each party. Unless a written, fully executed stipulation is filed or unless the decree contains the written approval of the other party or their legal representative, a transcript of the oral stipulation shall be filed by the lawyer directed to prepare the decree. Responsibility for the cost of the transcript shall be determined by the court. Entry of the decree shall be deferred for 14 days to allow for objections unless the decree contains the written approval of the lawyer for each party, or the other party if he or she is self-represented.

(Amended effective May 1, 2012; amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

Subsection (a) of this rule is derived from existing Rule 6.01 of the Rules of Family Court Procedure.

Subsection (b) of this rule is derived from existing Rule 6.02 of the Rules of Family Court Procedure.

Rule 308. Final Order, Judgment, or Decree**Rule 308.01 Notices; Service**

(a) Awards of Child Support and/or Maintenance. All orders, judgments, and decrees that include awards of child support or maintenance, unless otherwise directed by the court, shall include the provisions set forth in Minnesota Statutes, section 518.68 (Appendix A).

(b) Public Assistance. When a party is receiving or has applied for public assistance, the party obtaining the judgment and decree shall serve a copy on the agency responsible for child support enforcement, and the decree shall direct that all payments of child support and spousal maintenance shall be made to the Minnesota Child Support Central Payment Center for as long as the custodial parent is receiving assistance.

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

(d) Supervised Parenting Time or Visitation. A copy of any judgment and decree or other order directing ongoing supervision of parenting time or visitation shall be provided to the appropriate agency by the party obtaining the decree or other order.

(Amended effective May 1, 2012; amended effective July 1, 2015.)

Family Court Rules Advisory Committee Commentary*

Minnesota Statutes, section 518.551, requires that maintenance or support must be ordered payable to the public agency so long as the obligee is receiving public assistance.

Agencies responsible for enforcement of child support in private cases also require a copy of the judgment and decree.

**Original Advisory Committee Comment-Not kept current.*

Task Force Comment - 1991 Adoption

Subdivision (a) of this rule is derived from existing Rule 7.01 of the Rules of Family Court Procedure. The list of provisions is not set forth in this rule, as it was set forth in full in new Minn. Gen. R. Prac. 303.06.

Subdivision (b) is derived from Rule 7.02 of the Rules of Family Court Procedure, and also in part from Second District Local Rule 7.021.

Subdivision (c) is derived from Second District Local Rule 7.022.

Subdivision (d) of this rule, replacing existing Rule 7.03 of the Rules of Family Court Procedure, was recommended to the Task Force by the Minnesota State Bar Association Family Law Section.

Advisory Committee Comment - 2015 Amendments

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

[For text of 308.02 to 308.04, see M.S. 2014, Volume 15]

Rule 309. Contempt**Rule 309.01 Initiation**

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

(b) Content of Order to Show Cause or Notice of Motion and Motion. The order to show cause shall direct the alleged contemnor to appear and show cause why he or she should not be held in contempt of court and why the moving party should not be granted the relief requested by the motion. If proceeding by notice of motion and motion, the motion may seek that relief directly.

The notice of motion and motion or order to show cause shall contain at least the following:

- (1) a reference to the specific order or judgment of the court alleged to have been violated and the date of entry or filing of the order or judgment;
- (2) a quotation of the specific applicable provisions ordered;
- (3) the alleged failures to comply;
- (4) notice to the alleged contemnor that his or her ability to pay is a crucial issue in the contempt proceeding and that a Parenting/Financial Disclosure Statement form for submitting ability to pay information is available from the state court website, and this form should be served and filed with the court at or before the contempt hearing; and
- (5) a date to appear for a Rule 309.02 hearing no later than 60 days after the issuance of the notice of motion or order to show cause.

(c) Affidavits. The supportive affidavit of the moving party shall set forth each alleged violation of the order with particularity. Where the alleged violation is a failure to pay sums of money, the affidavit shall state the kind of payments in default and shall specifically set forth the payment dates and the amounts due, paid and unpaid for each failure.

Any responsive affidavit shall set forth with particularity any defenses the alleged contemnor will present to the court. Where the alleged violation is a failure to pay sums of money, the affidavit shall set forth the nature, dates and amount of payments, if any.

(Amended effective January 1, 2010; amended effective May 1, 2012; amended effective July 1, 2015.)

Family Court Rules Advisory Committee Commentary*

Service of the order to show cause upon the person provides jurisdiction for the issuance of a writ of attachment or bench warrant, if necessary, and meets the requirement or an opportunity to be heard. See Clausen v. Clausen, 250 Minn. 293, 84 N.W.2d 675 (1976); Hopp v. Hopp, 279 Minn. 170, 156 N.W.2d 212 (1968).

**Original Advisory Committee Comment-Not kept current.*

Task Force Comment - 1991 Adoption

Subdivision (a) of this rule is derived from existing Rule 8.01 of the Rules of Family Court Procedure.

Subdivision (b) of this rule is derived from existing Rule 8.01 of the Rules of Family Court Procedure. The new language is derived from Second District Local Rule 8.011.

Advisory Committee Comment - 2009 Amendment

Rule 309.01 is amended in 2009 to remove an apparent requirement that any contempt proceeding be commenced by order to show cause. Although an order to show cause is an

available mechanism for initiating contempt proceedings, the authorizing statute also recognizes that these proceedings may be commenced by motion accompanied by appropriate notice. See Minnesota Statutes, section 588.04. The amendment to Rule 309.01 is intended simply to recognize that both mechanisms are available. In many situations, proceeding by order to show cause is preferable. Use of an order to show cause, which is court process served with the same formality as a summons, permits the court to impose sanctions directly upon failure to comply. See Minnesota Statutes, section 588.04. It is the preferred means to commence a contempt proceeding if there is significant risk that the alleged contemnor is likely not to appear in response to a notice of motion.

Advisory Committee Comment - 2012 Amendment

Rule 309.01 does not require that contempt proceeding be commenced by an order to show cause, even though that is the most common and most direct means of commencing the proceedings. Although an order to show cause is an available mechanism for initiating contempt proceedings, the authorizing statute also recognizes that these proceedings may be commenced by motion accompanied by appropriate notice. See Minnesota Statutes, section 588.04. The amendment to Rule 309.01 is intended simply to recognize that both mechanisms are available. In many situations, proceeding by order to show cause is preferable. Use of an order to show cause, which is court process served with the same formality as a summons, permits the court to impose sanctions directly upon failure to comply. See Minnesota Statutes, section 588.04. The order to show cause is still the preferred means to commence a contempt proceeding if there is meaningful risk that the alleged contemnor will not to appear in response to a notice of motion. Service of the order to show cause upon the person provides jurisdiction for the issuance of a writ of attachment or bench warrant, if necessary, and meets the requirement for notice of an opportunity to be heard. See *Clausen v. Clausen*, 250 Minn. 293, 84 N.W.2d 675 (1976); *Hopp v. Hopp*, 279 Minn. 170, 156 N.W.2d 212 (1968).

The requirement in Rule 309.01(b)(5) that a hearing be held within 60 days of issuance of an order or notice of motion is intended to create the standard rule and to underscore the importance of holding the hearing promptly so that the contempt issues may be resolved. Where exceptional circumstances are found to exist by the court, the hearing may be held later than 60 days from the order or notice, but it should still be heard by the court as promptly as possible.

[For text of 309.02 to 309.04, see M.S. 2014, Volume 15]

Rule 313. Confidential Numbers and Tax Returns

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

(Amended effective July 1, 2005; amended effective July 1, 2015.)

Rule 353. Types of Proceedings

Rule 353.01 Types of Proceedings

Subdivision 1. Mandatory Proceedings. Proceedings to establish, modify, and enforce support shall be conducted in the expedited process if the case is a IV-D case, except as provided in subdivision 2 and Rule 353.02. Proceedings to enforce spousal maintenance, including spousal maintenance cost-of-living adjustment proceedings, shall, if combined with a support issue, be conducted in the expedited process if the case is a IV-D case, except as provided in subdivision 2 and Rule 353.02.

Subd. 2. Permissive Proceedings.

(a) **County Option.** At the option of each county, the following proceedings may be initiated in the expedited process if the case is a IV-D case, except to the extent prohibited by subdivision 3:

- (1) parentage actions; and
- (2) civil contempt matters.

(b) **Parentage Actions.** Any order issued pursuant to Rule 353.01, subd. 2(b) shall address the financial issues if appropriate, whether or not agreed upon by the parties.

(1) **Complete Order.** Notwithstanding subdivision 3 a child support magistrate has the authority to establish the parent-child relationship, legal and physical custody, parenting time, and the legal name of the child when:

(A) the parties agree or stipulate to all of these particular issues; or

(B) the pleadings specifically address these particular issues and a party fails to serve a response or appear at the hearing.

If all of the otherwise prohibited issues above have been resolved on a permanent basis, the child support magistrate shall issue an order which shall be a final determination of all claims raised in the parentage action.

(2) **Partial Order.**

(A) **Minimal Requirements.** If the parties at least agree to the parent-child relationship and temporary or permanent physical custody, the child support magistrate shall issue an order:

- (1) establishing the parent-child relationship; and
- (2) establishing temporary or permanent physical custody.

(B) **Further Agreed Upon Issues.** The order of the child support magistrate shall also establish parenting time and the legal name of the child if the parties so agree.

The order is final as to the parent-child relationship. The order is also final as to any agreement concerning permanent legal or physical custody, parenting time, name of the child, and any financial issues decided by the child support magistrate. If there is no agreement concerning permanent legal and/or physical custody, parenting time, or the legal name of the child, those issues shall be referred to the district court. The issues referred to district court are considered pending before the district court and are not final until the district court issues an order deciding those issues. The order of the child support magistrate referring the remaining issues to district court is not appealable pursuant to Rule 378. This rule shall not limit the right to appeal the district court's order. When one or more issues are referred to district court, service of the summons and complaint in the expedited process is sufficient for the matter to proceed in district court.

(3) **Order When Parent-Child Relationship Not Resolved.** In an action to establish parentage, if the parties do not agree to the parent-child relationship and the temporary or permanent physical custody, the child support magistrate shall make findings and issue an order as follows.

(A) **Blood or Genetic Testing Not Completed.** When the issue of the parent-child relationship is not resolved and genetic testing has not been completed, the child support magistrate shall order genetic testing and shall continue the hearing in the expedited process to allow the tests to be completed and the results to be received.

(B) **Blood or Genetic Testing Completed.** When genetic testing has been completed, if the parties still disagree about the parent-child relationship, the child support magistrate shall refer the entire matter to district court for further proceedings. The child support magistrate may set temporary support pursuant to Rule 371.11, subd. 2.

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

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

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

Subd. 3. Prohibited Proceedings and Issues. The following proceedings and issues shall not be conducted or decided in the expedited process:

- (a) non-IV-D cases;
- (b) establishment, modification, or enforcement of custody or parenting time under Minnesota Statutes 2000, chapter 518, unless authorized in subdivision 2;
- (c) establishment or modification of spousal maintenance;
- (d) issuance, modification, or enforcement of orders for protection under Minnesota Statutes, chapter 518B;
- (e) division of marital property;
- (f) determination of parentage, except as permitted by subdivision 2(b);
- (g) evidentiary hearings to establish custody, parenting time, or the legal name of the child under Minnesota Statutes 2000, chapter 257;
- (h) evidentiary hearings in contempt matters;
- (i) matters of criminal contempt;
- (j) motions to change venue, except as permitted in subdivision 2;
- (k) enforcement proceedings prohibited in Rule 373.01;
- (l) matters of criminal non-support;
- (m) motions to vacate a recognition of paternity or paternity adjudication; and
- (n) the constitutionality of the statutes and rules.

(Amended effective July 1, 2001; amended effective November 1, 2003; amended effective July 1, 2015.)

[For text of 353.02, see M.S. 2014, Volume 15]

Rule 354. Computation of Time

Rule 354.01 Generally

All time periods shall be measured by starting to count on the first day after any event happens which by these rules starts the running of a time period. The last day of the time period shall be included, unless it is a:

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

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

(Amended effective July 1, 2015.)

Rule 354.02 Time Periods Less Than Seven Days

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

(Amended effective July 1, 2015.)

Rule 354.03 "Legal Holiday" Defined

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

(Amended effective June 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment

State-Level Judicial-Branch Holidays. The legal holidays listed in Rule 354.03 are based upon Minnesota Statutes 2000, section 645.44, subdivision 5, which defines state-level judicial-branch holidays. The statute further provides that when New Year's Day (January 1), Independence Day (July 4), Veteran's Day (November 11), or Christmas Day (December 25) falls on a Sunday, the following day (Monday) shall be a holiday, and that when New Year's Day, Independence Day, Veteran's Day, or Christmas Day falls on a Saturday, the preceding day (Friday) shall be a holiday. Minnesota Statutes, section 645.44, subdivision 5, also authorizes the judicial branch to designate certain other days as holidays. The Judicial Branch Personnel Plan designates the Friday after Thanksgiving as a holiday.

County Holidays. Counties are authorized to close county offices on certain days under Minnesota Statutes 2000, section 373.052. Thus, if a county closes its offices under Minnesota Statutes, section 373.052, on a day that is not a state-level judicial-branch holiday, such as Christopher Columbus Day (the second Monday in October), the court in that county would nevertheless include that day as a holiday for the purpose of computing time under Rule 354.03. See *Mittelstadt v. Breider*, 286 Minn. 211, 212, 175 N.W.2d 191, 192 (1970) (applying Minnesota Statutes, section 373.052, to filing of notice of election contest with district court). If a county does not close its offices on a day that is a state-level judicial-branch holiday, such as the Friday after Thanksgiving, the court in that county must still include that day as a holiday for the purpose of computing time under Rule 354.03.

Advisory Committee Comment - 2008 Amendment

In 2006 the Minnesota Supreme Court addressed the ambiguity in the rules and the ambiguity between the rules and statutes over how Columbus Day should be treated. Columbus Day is only optionally a state holiday (by statute the different branches can elect to treat it as a holiday) but is uniformly a federal and U.S. mail holiday. Because the rules generally allow service by mail, the Court in *Commandeur LLC v. Howard Hartry, Inc.*, 724 N.W.2d 508 (Minn. 2006), ruled that where the last day of a time period occurred on Columbus Day, service by mail permitted by the rules was timely if mailed on the following day on which mail service was available. The amendment to Rule 354.03 makes it clear that Columbus Day is a "legal holiday" for all purposes in these rules, even if that is not necessarily so by the statutory definition. Minnesota Statutes 2008, section 645.44, subdivision 5.

Rule 354.04 Additional Time if Service by Mail or Service Late in Day

Whenever a person has the right or is required to do an act within a prescribed period of time after service of a notice or other document, and the notice or other document is permitted to be and is served by U.S. mail, 3 days shall be added to the prescribed time

period. If service is made by any means other than by U.S. mail and accomplished after 5:00 p.m. local Minnesota time, 1 additional day shall be added to the prescribed time period.

(Amended effective July 1, 2015.)

Rule 355. Methods of Service; Filing

Rule 355.01 Generally

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

Subd. 2. Service Upon Attorney for Party. If a party, other than the county agency, is represented by an attorney as shown by a certificate of representation in the court file, service shall be made upon the party's attorney, unless personal service upon the represented party is required under these rules. Except where personal service upon the county agency is required under these rules, service upon the county agency shall be accomplished by serving the county attorney.

(Amended effective July 1, 2015.)

Rule 355.02 Types of Service

Subdivision 1. Personal Service.

(a) Upon Whom.

(1) Upon an Individual. Personal service upon an individual in the state shall be accomplished by delivering a copy of the summons and complaint, notice, motion, or other document to the individual personally or by leaving a copy at the individual's house or usual place of residence with some person of suitable age and discretion who presently lives at that location. If the individual has, pursuant to statute, consented to any other method of service or appointed an agent to receive service, or if a statute designates a state official to receive service, service may be made in the manner provided by such statute. If the individual is confined to a state institution, personal service shall be accomplished by also serving a copy of the document upon the chief executive officer at the institution. Personal service upon an individual outside the state shall be accomplished according to the provisions of Minnesota Statutes 2000, chapter 518C, and Minnesota Statutes 2000, section 543.19. Personal service may not be made on a legal holiday or election day.

(2) Upon the County Agency. Personal service upon the county agency shall be accomplished by serving the director of the county human services department or the director's designee.

(b) By Whom Served. Unless otherwise ordered by the child support magistrate, personal service shall be made only by the sheriff or by any other person who is at least 18 years of age who is not a party to the proceeding. Pursuant to Minnesota Statutes 2006, section 518A.46, subdivision 2, paragraph (c), clause (4), an employee of the county agency may serve documents on parties.

(c) Alternative Personal Service.

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

may order the costs of personal service to be paid by the person served, if such person does not complete and return the notice and acknowledgment form within 20 days.

(2) Service by Publication.

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

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

Subd. 2. Service by U.S. Mail. Service by U.S. mail means mailing a copy of the document by first-class mail, postage prepaid, addressed to the person to be served at the person's last known address. Service by mail shall be made only by the sheriff or by any other person who is at least 18 years of age who is not a party to the proceeding. Pursuant to Minnesota Statutes 2006, section 518A.46, subdivision 2, paragraph (c), clause (4), an employee of the county agency may serve documents on the parties.

Subd. 3. Service by Electronic Means. Unless these rules require personal service, any document may be served by electronic means under Rule 14 upon any party who has agreed to or is required to accept service by electronic means.

(Amended effective January 1, 2006; amended effective June 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

Rule 355.02, subdivisions 1 and 2, are amended to reflect the recodification, effective on January 1, 2007, of portions of the relevant statutes, that became part of Minnesota Statutes, chapter 518A.

Rule 355.03 Completion of Service

Personal service is complete upon delivery of the document. Service by U.S. mail is complete upon mailing. Service by publication is complete 21 days after the first publication. Completion of service by electronic means under Rule 14 is governed by Rule 14 of these rules.

(Amended effective July 1, 2015.)

Rule 355.04 Proof of Service

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

Subd. 2. Court Administrator. If the court administrator is required or permitted under these rules to serve a document, service may be proved by filing an affidavit of service,

by filing a copy of the written notice, or by making a notation in the court's computerized records that service was made.

(Amended effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

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

Rule 360. Intervention

Rule 360.01 County Agency

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

Subd. 2. Effective Date. Intervention by the county agency is effective when the last person is served with the notice of intervention.

(Amended effective July 1, 2015.)

[For text of 360.02 and 360.03, see M.S. 2014, Volume 15]

Rule 361. Discovery

[For text of 361.01, see M.S. 2014, Volume 15]

Rule 361.02 Exchange of Documents

Subdivision 1. Documents Required to be Provided Upon Request. If a complaint or motion has been served and filed in the expedited process, a party may request any of the documents listed below. The request must be in writing and served upon the appropriate party. The request may be served along with the pleadings. A party shall provide the following documents to the requesting party no later than ten (10) days from the date of service of the written request.

(a) Verification of income, costs and availability of dependent health care coverage, child care costs, and expenses.

(b) Copies of last three months of pay stubs.

(c) A copy of last two years' State and Federal income tax returns with all schedules and attachments, including Schedule Cs, W-2s and/or 1099s.

(d) Written verification of any voluntary payments made for support of a joint child.

(e) Written verification of any other court-ordered child support obligation for a nonjoint child.

(f) Written verification of any court-ordered spousal maintenance obligation.

Subd. 2. Remedies for Non-compliance. If a party does not provide the documents, the party shall be prepared to explain the reason for the failure to the child support magistrate. If the magistrate determines that the documents should have been provided, the magistrate may impose the remedies available in Rule 361.04.

Subd. 3. Financial Statement. If a complaint or motion has been served, any party may request in writing that a financial statement be completed by a party, other than a county agency, and submitted five (5) days prior to hearing, or if no hearing is scheduled, within ten (10) days from the request being served. Failure to comply is subject to remedies under Rule 361.04. Where a financial statement requests supporting documentation, it shall be attached.

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

(Amended effective November 1, 2003; amended effective July 1, 2005; amended effective January 1, 2006; amended effective June 1, 2009; amended effective July 1, 2015.)

[For text of 361.03 and 361.04, see M.S. 2014, Volume 15]

Rule 361.05 Filing of Discovery Requests and Responses Precluded

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

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

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

(Amended effective November 1, 2003; amended effective July 1, 2005; amended effective July 1, 2015.)

[For text of 361.06, see M.S. 2014, Volume 15]

Rule 362. Settlement

[For text of 362.01, see M.S. 2014, Volume 15]

Rule 362.02 Signing of Order

Subdivision 1. Preparation and Signing. If the parties reach an agreement resolving all issues, one of the parties shall prepare an order setting forth the terms of the agreement. If the parties are self-represented litigants and the county agency is a party, the county agency shall prepare the order. All parties to the agreement, including the county agency, shall sign the original order. The order shall state that the parties have:

- (a) waived the right to a hearing;
- (b) waived the right to counsel where a party is a self-represented litigant; and
- (c) received and reviewed all documents used to prepare the order.

Subd. 2. Filing. The original order signed by all parties shall be filed with the court, who shall submit it to the child support magistrate for review and signature.

(Amended effective July 1, 2015.)

[For text of 362.03, see M.S. 2014, Volume 15]

Rule 362.04 Order Not Accepted

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

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

The court administrator shall transmit the notice of deficiency to the parties. The parties shall either correct the deficiency or set the case on for a hearing and serve notice of the date, time, and location of the hearing pursuant to Rule 364. In matters that are pending before the court, if the parties fail to comply with the notice of deficiency within 45 days of the date the notice was transmitted, the child support magistrate shall dismiss the matter without prejudice.

A stipulation or agreement shall be rejected where no underlying file exists. Neither the parties nor the child support magistrate may schedule a hearing without a party first serving and filing a summons and complaint or notice of motion and motion.

(Amended effective July 1, 2015.)

Advisory Committee Comment

After an order or a judgment and decree is issued, at a later date parties sometimes amicably agree to modify the order. These agreements are often reached without the serving and filing of any papers. Under such circumstances, the parties are required to reduce the agreement to writing in the form of a stipulation and order which a child support magistrate may accept or reject. If the stipulation and order is rejected, and there is no underlying file, the matter may not be set for hearing until such time as a complaint is filed thus giving the court jurisdiction over the parties.

Rule 363. Default

[For text of 363.01, see M.S. 2014, Volume 15]

Rule 363.02 Procedure

The initiating party may proceed by default if:

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

The initiating party shall file an order with the court within 45 days from the date the last noninitiating party was served with the summons and complaint or notice of motion and motion. The initiating party shall also file with the court a current affidavit of default and a current affidavit of non-military status. If an order is not filed with the court within 45 days, the court administrator shall mail a notice to all parties that the matter shall be scheduled for hearing unless the initiating party files an order along with all necessary documents within 10 days from the date notice was mailed. If the initiating party fails to file the necessary

documents within the allotted 10 days, the court administrator shall set the matter on for hearing and serve upon all parties and the county agency by U.S. mail at least 14 days before the scheduled hearing, notice of the date, time, and location of the hearing. The notices shall be sent by electronic means in accordance with Rule 14 to any party who has agreed to or is required to accept electronic service under Rule 14.

(Amended effective July 1, 2015.)

[For text of 363.03, see M.S. 2014, Volume 15]

Rule 363.04 Order Not Accepted

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

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

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

(Amended effective June 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

Rule 363.04 is amended to create specific time limits for setting a case on for hearing following receipt of a notice of deficiency in an order proposed by an initiating agency or to serve amended pleadings. The amendment also establishes a specific time limit for responding to an amended pleading that may be served.

Rule 364. Hearing Process

[For text of 364.01, see M.S. 2014, Volume 15]

Rule 364.02 Scheduling of Hearing

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

(Amended effective July 1, 2015.)

[For text of 364.03 to 364.15, see M.S. 2014, Volume 15]

Rule 365. Decision and Order of Child Support Magistrate

[For text of 365.01 to 365.03, see M.S. 2014, Volume 15]

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

Subdivision 1. Service by Court Administrator. Within 5 days of receipt of the decision and order of the child support magistrate the court administrator shall serve a notice of filing of order or notice of entry of judgment upon each party by U.S. mail, together with a copy of the order or judgment if a copy of the order was not served at the hearing. The court administrator shall use the notice of filing form prepared by the state court administrator which shall set forth the information required in subdivision 2. The notices shall be sent by electronic means in accordance with Rule 14 to any party who has agreed to or is required to accept electronic service under Rule 14.

Subd. 2. Content of Notice. The notice required in subdivision 1 shall include information regarding the:

- (a) right to bring a motion to correct clerical mistakes pursuant to Rule 375;
- (b) right to bring a motion for review of the decision and order of the child support magistrate pursuant to Rule 376;
- (c) right to appeal a final order or judgment of the child support magistrate directly to the court of appeals pursuant to Rule 378;
- (d) right of other parties to respond to motions to correct clerical mistakes, motions for review, and appeals pursuant to Rules 377 and 378; and
- (e) authority of the child support magistrate to award costs and fees if the magistrate determines that a motion to correct clerical mistakes or a motion for review is not made in good faith or is brought for purposes of delay or harassment pursuant to Rule 377.09, subd. 6.

Subd. 3. Court Administrator Computes Dates. The court administrator shall compute, and set forth in the notice required in subdivision 1, the last day for bringing a motion for review and the last day for bringing any response to such motion.

(Amended effective July 1, 2015.)

Advisory Committee Comment

Timing and Procedure for Bringing Motions. The timing for bringing a motion for review differs from the timing for bringing an appeal to the Court of Appeals. Under Rule 377.02, the time within which to bring a motion for review is twenty (20) days, which begins to run on the date the court administrator serves the notice of filing of order or notice of entry of judgment.

Timing and Procedure for Bringing an Appeal to Court of Appeals. Rule 104.01 of the Minnesota Rules of Civil Appellate Procedure provides that the time within which to bring an appeal to the Court of Appeals is sixty (60) days which begins to run on the date of service by any party upon any other party of written notice of the filing of the order or entry of the judgment. The Advisory Committee intends that Rule 378.01 supersede Minn. R. Civ. App. P. 104.01 to provide that the sixty (60) days begins to run on the date the court administrator serves the written notice of filing of the order or notice of entry of judgment.

Options for Review and Appeal. A party may choose to bring a motion to correct clerical mistakes, a motion for review, or a combined motion, or may choose to appeal directly to the Court of Appeals thus bypassing the first two options. However, if a party chooses the option of appealing directly to the Court of Appeals without first bringing a motion for review, such an appeal will be limited to determining whether the evidence sustains the findings of fact (to which the "clearly erroneous" standard of review applies) and whether the findings support the conclusions of law and the judgment. *Kahn v. Tronnier*, 547 N.W.2d

425, 428 (Minn. App.), rev. denied (Minn. July 10, 1996). Thus, although a motion for review is very important to obtaining the broadest possible appellate review, it is not an absolute prerequisite to appeal; a litigant can choose to file a direct appeal from the order of the child support magistrate, but the appeal will be limited to issues within that narrower scope of review.

Rule 370. Establishment of Support Proceedings

[For text of 370.01, see M.S. 2014, Volume 15]

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

Subdivision 1. Content of Summons. A summons shall:

- (a) state the name of the court;
- (b) state the names of the parties;
- (c) state an address where the initiating party may be served;
- (d) state that the purpose of the action is to establish support;
- (e) either set a hearing date or attach a request for hearing form;
- (f) provide information about serving and filing a written response pursuant to Rule 370.04 and Rule 370.05;
- (g) state that all parties shall appear at the hearing if one is scheduled, and state that if any party fails to appear at the hearing the child support magistrate shall proceed pursuant to Rule 365.01;
- (h) state that the child support magistrate may sign a default order pursuant to Rule 363.03;
- (i) state that a party has the right to representation pursuant to Rule 357;
- (j) state that the case may be settled informally by contacting the initiating party, and include the name, address, and telephone number of the person to contact to discuss settlement; and
- (k) be signed by the initiating party or that party's attorney.

If there is reason to believe that domestic violence exists or if an order for protection has been issued, the party may provide an alternative address and telephone number. Pursuant to Minnesota Statutes 2000, section 518.005, subdivision 5, in all actions in which public assistance is assigned or the county agency is providing services to a party or parties to the action, information regarding the location of one party may not be released by the county agency to any other party if the county agency has knowledge that a protective order with respect to the other party has been entered or has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Subd. 2. Content of Complaint. A complaint shall:

- (a) state the relief the initiating party wants the child support magistrate to order;
- (b) state the facts and grounds supporting the request for relief;
- (c) set forth the acknowledgment required under Rule 379.04; and
- (d) be signed by the initiating party or that party's attorney.

Subd. 3. Content of Supporting Affidavit. A supporting affidavit is required when the summons does not contain a hearing date. The supporting affidavit shall:

- (a) state detailed facts supporting the request for relief;
- (b) provide all information required by Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), if known; and
- (c) be either:

(1) signed and sworn to under oath; or

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

Subd. 4. Content of Request for Hearing Form. A request for hearing form shall contain the name and address of the initiating party and a short, concise statement that a noninitiating party requests a hearing.

(Amended effective June 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

Rule 370.02, subdivision 3, is amended to update the statutory reference to reflect the recodification, effective on January 1, 2007, of portions of the relevant statutes, that became part of Minnesota Statutes, chapter 518A. Pursuant to Minnesota Statutes, section 518A.46, subdivision 3, paragraph (b), for all cases involving establishment or modification of support, the pleadings are to contain specific information. At times, it may be necessary to attach additional supporting documents. Each county should establish its own local policy regarding the attachment of supporting documents.

[For text of 370.03, see M.S. 2014, Volume 15]

Rule 370.04 Filing Requirements

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

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

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

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

Subd. 3. Electronic Filing. Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

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

(Amended effective January 1, 2006; amended effective June 1, 2009; amended effective July 1, 2015.)

[For text of 370.05 to 370.12, see M.S. 2014, Volume 15]

Rule 371. Parentage Actions

[For text of 371.01, see M.S. 2014, Volume 15]

Rule 371.02 Content of Summons, Complaint, and Supporting Affidavit

Subdivision 1. Content of Summons. A summons shall:

- (a) state the name of the court;
- (b) state the names of the parties;
- (c) state an address where the initiating party may be served;
- (d) state that the purpose of the action is to establish parentage;
- (e) state the date, time, and location of the hearing;
- (f) provide information about serving and filing a written response pursuant to Rule 371.04 and Rule 371.05;
- (g) state that all parties shall appear at the hearing, and if any party fails to appear at the hearing the child support magistrate shall proceed pursuant to Rule 365.01;
- (h) state that a party has the right to representation pursuant to Rule 357;
- (i) state that the case may be settled informally by contacting the initiating party and include the name, address, and telephone number of the person to contact to discuss settlement; and
- (j) be signed by the initiating party or that party's attorney.

If there is reason to believe that domestic violence exists or if an order for protection has been issued, a party may provide an alternative address and telephone number. Pursuant to Minnesota Statutes 2000, section 257.70, paragraph (b), in all actions in which public assistance is assigned or the county agency is providing services to a party or parties to the action, information regarding the location of one party may not be released by the county agency to any other party if the county agency has knowledge that a protective order with respect to the other party has been entered or has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Subd. 2. Content of Complaint. A complaint shall:

- (a) state the relief the initiating party wants the child support magistrate to order;
- (b) state the facts and grounds supporting the request for relief;
- (c) set forth the acknowledgement required under Rule 379.04; and
- (d) be signed by the initiating party or that party's attorney.

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

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

signing and the county and state where the document was signed shall be noted on the document.

(Amended effective June 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

Pursuant to Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), for all cases involving establishment or modification of support, the pleadings are to contain specific information. At times, it may be necessary to attach additional supporting documents. Each county should establish its own local policy regarding the attachment of supporting documents.

[For text of 371.03, see M.S. 2014, Volume 15]

Rule 371.04 Filing Requirements

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

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

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

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

Subd. 3. Electronic Filing. Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

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

(Amended effective January 1, 2006; amended effective June 1, 2009; amended effective July 1, 2015.)

[For text of 371.05 to 371.15, see M.S. 2014, Volume 15]

Rule 372. Motions to Modify, Motions to Set Support, and Other Matters

[For text of 372.01, see M.S. 2014, Volume 15]

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

Subdivision 1. Content of Notice. A notice of motion shall:

- (a) state the name of the court;
- (b) state the names of the parties as set forth in the summons and complaint, or summons and petition, unless amended by order of the court;
- (c) state an address where the initiating party may be served;

- (d) state the purpose of the action;
- (e) for motions brought pursuant to Rule 372.01, subd. 2, state the date, time, and location of the hearing;
- (f) for motions brought pursuant to Rule 372.01, subd. 1, either state the date, time, and location of the hearing if one is scheduled or, if no hearing is scheduled, state that any party has a right to a hearing and attach a request for hearing form;
- (g) provide information about serving and filing a written response pursuant to Rule 372.04 and Rule 372.05;
- (h) state that all parties shall appear at the hearing if one is scheduled, and if any party fails to appear at the hearing, the child support magistrate shall proceed pursuant to Rule 365.01;
- (i) state that a party has a right to representation pursuant to Rule 357;
- (j) state that the case may be settled informally by contacting the initiating party and include the name, address, and telephone number of the person to contact to discuss settlement; and
- (k) be signed by the initiating party or that party's attorney.

If there is reason to believe that domestic violence exists or if an order for protection has been issued, the party may provide an alternative address and telephone number. Pursuant to Minnesota Statutes, section 518.005, subdivision 5, in all actions in which public assistance is assigned or the county agency is providing services to a party or parties to the action, information regarding the location of one party may not be released by the county agency to the other party if the county agency has knowledge that a protective order with respect to the other party has been entered or has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Subd. 2. Content of Motion. A motion shall:

- (a) state the relief the initiating party wants the child support magistrate to order;
- (b) state the specific support that the initiating party wants the child support magistrate to order if the notice of motion does not contain a hearing date;
- (c) state the facts and grounds supporting the request for relief;
- (d) set forth the acknowledgement under Rule 379.04; and
- (e) be signed by the initiating party or that party's attorney.

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

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

Subd. 4. Content of Request for Hearing Form. A request for hearing form shall contain the name and address of the initiating party, and a short and concise statement that a noninitiating party requests a hearing.

(Amended effective June 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment - 2008 Amendment

Pursuant to Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), for all cases involving establishment or modification of support, the pleadings are to contain specific information. At times, it may be necessary to attach additional supporting documents. Each county should establish its own local policy regarding the attachment of supporting documents.

Rule 372.03 Service of Notice of Motion and Motion

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

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

(Amended effective July 1, 2015.)

Rule 372.04 Filing Requirements

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

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

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

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

Subd. 3. Electronic Filing. Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

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

(Amended effective January 1, 2006; amended effective July 1, 2015.)

[For text of 372.05 to 372.12, see M.S. 2014, Volume 15]

Rule 377. Procedure on a Motion to Correct Clerical Mistakes, Motion for Review, or Combined Motion

[For text of 377.01, see M.S. 2014, Volume 15]

Rule 377.02 Timing of Motion

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

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

(b) Serve the completed motion for clerical mistakes form, motion for review form, or combined motion form upon all other parties and the county agency. Service may be made by personal service or by U.S. mail pursuant to Rule 355.02. If the moving party has agreed to or is required to accept electronic service under Rule 14, service must be made by electronic means upon any other parties that have agreed to or are required to accept electronic service under Rule 14.

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

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

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

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

(Amended effective July 1, 2015.)

[For text of 377.03, see M.S. 2014, Volume 15]

Rule 377.04 Response to Motion

Subdivision 1. Timing of Response to Motion. A responding party may respond to a motion to correct clerical mistakes or a motion for review. Any response shall state why the relief requested in the motion should or should not be granted. If a responding party wishes to raise other issues, the responding party must set forth those issues as a counter motion in the response. To respond to a motion to correct clerical mistakes the party shall perform items (a) through (e) within ten (10) days of the date the party was served with the motion. To respond to a motion for review or a combined motion the party shall perform (a) through (f) within thirty (30) days of the date the party was served with the notice under Rule 365.04. To respond to a counter motion, the party shall perform items (a) through (f) within forty (40) days of the date the party was served with the notice under Rule 365.04.

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

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

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

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

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

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

Subd. 2. Content of Response to Motion

(a) Content of Response to Motion to Correct Clerical Mistakes. A response to a motion to correct clerical mistakes shall:

- (1) identify by page and paragraph the clerical mistake(s) alleged by the moving party and state whether responding party agrees or opposes the corrections;
- (2) include an acknowledgment as required pursuant to Rule 379.04; and
- (3) be signed by the responding party or that party's attorney.

(b) Content of Response to Motion for Review, Combined Motion, or Counter Motion. A response to a motion for review, combined motion, or counter motion shall:

- (1) state why the relief requested should or should not be granted;
- (2) if new issues are raised, state the specific change(s) requested;
- (3) if new issues are raised, specify the evidence or law that supports the requested change(s);
- (4) state whether the party is requesting that the review be by the child support magistrate who issued the order being reviewed or by a district court judge;
- (5) state whether the party is requesting an order authorizing the party to submit new evidence;
- (6) state whether the party requests an order granting a new hearing;
- (7) include an acknowledgement as required pursuant to Rule 379.04; and
- (8) be signed by the responding party or that party's attorney.

(Amended effective November 1, 2003; amended effective July 1, 2015.)

[For text of 377.05 to 377.11, see M.S. 2014, Volume 15]

Rule 379. Forms

[For text of 379.01 to 379.03, see M.S. 2014, Volume 15]

Rule 379.04 Acknowledgment

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

- (a) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (b) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (c) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;

(d) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief; and

(e) the court may impose an appropriate sanction upon the attorneys, law firms, or parties that violate the above stated representations to the court, or are responsible for the violation.

Subd. 2. Motions to Correct Clerical Mistakes and Motions for Review. In motions to correct clerical mistakes, motions for review, or combined motions, the acknowledgment shall also include the following:

(a) a statement that the existing order remains in full force and effect and the parties must continue to comply with that order until a new order is issued; and

(b) a statement that the party understands that the child support magistrate or judge will decide whether the party may submit new information or whether the party may have a hearing, and that the parties will be notified if the party's request is granted.

(Amended effective July 1, 2015.)

[For text of 379.05, see M.S. 2014, Volume 15]

Rule 404. Notice in Formal Proceedings

(a) General Notice Requirements. In all formal proceedings notice of a hearing on any petition shall be given as provided in the code after the court issues the order for hearing. Where mailed notice is required, proof of mailing the notice of hearing shall be filed with the court administrator before any formal order will issue. Mailed notice shall be given to any interested person as defined by the code or to the person's lawyer. Where notice by personal service or publication is required by the code, proof of personal service or publication shall be filed with the court administrator before the formal order will issue.

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

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

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

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

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

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

(c) Waiver of Notice in Formal Proceedings. Except in proceedings governed by subdivision (b) of this rule, an interested person may waive notice of any formal proceeding in accordance with the code. The written waiver shall evidence the person's consent to the order sought in the proceeding.

(Amended effective July 1, 2015.)

Probate Committee Comment*

Publication required by this notice must be completed prior to the hearing date.

**Original Advisory Committee Comment - Not kept current.*

Rule 408. Informal Proceedings

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

Probate Assets

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

Non-Probate Assets

Joint Tenancy	\$ _____
Insurance	\$ _____
Other	\$ _____

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

Probate Committee Comment* - 2015 Amendments

Examples (These are not intended to be exhaustive)

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

(1) Where only the spouse survives, the application should state "That decedent left no surviving descendants (including adopted descendants); and was not in the process of adopting an individual at the time of the decedent's death."

(2) Where only children survive, the application should state "That the decedent left surviving no spouse; no children (including adopted children) other than herein named; and no descendants of any deceased children."

(3) Where the spouse and children survive, the application should state "That the decedent left surviving no children (including adopted children) other than herein named and no descendants of any deceased children; and was not in the process of adopting an individual at the time of the decedent's death."

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

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

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

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

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

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

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

(b) Will Testimony. The registrar shall not require any affidavit or testimony with respect to execution of a will prior to informal probate if it is a self-proved will or appears to have been validly executed.

**Original Advisory Committee Comment - Not kept current.*

Probate Committee Comment*

Applicants for informal probate of a will which is not self-proved are encouraged to preserve evidence concerning the execution of the will if a formal testacy proceeding may later be required or desired.

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

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

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

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

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

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

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

(Amended effective July 1, 2015.)

Rule 413. Subsequent Proceedings

(a) Authority of Personal Representative During One Year Period After Filing Closing Statement. For one year from the date of filing the closing statement authorized by the code, the personal representative shall have full and complete authority to execute further transfers of property; to complete transactions; to complete distributions; to correct misdescriptions or improper identification of assets; or to transfer or distribute omitted property. During this period, the personal representative shall ascertain any matters of unfinished administration which must be completed prior to the termination of the representative's authority.

(b) Authority of Personal Representative to Transfer or Distribute Omitted Property During One Year Period After Filing Closing Statement. In the case of omitted property discovered after the filing of the closing statement authorized by the code, but before termination of the personal representative's authority, the personal representative must, as required by the code, file a supplementary inventory with the court and mail a copy to any surviving spouse, other distributees, and other interested persons, including creditors whose claims are unpaid and not barred. Proof of service by mail must be filed with the court prior to any transfer of the omitted property by the personal representative.

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

(d) Proof Required for Formal Settlement or Distribution in Subsequent Administration. During a subsequent administration, when an order of settlement of the estate and decree or order of distribution is sought, the court must be satisfied with the pleadings and any other proof (including accounting for all assets, disbursements, and distributions made during the prior administration) before issuing its order.

(Amended effective July 1, 2015.)

Rule 414. Fiduciaries

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

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This recommended change is made to permit family members, who happen to be lawyers, to serve as fiduciaries without automatically subjecting the estate to the burdens of supervised administration. Although supervised administration may be appropriate in individual cases, the Task Force believes that it should not be uniformly imposed on the families of lawyers.

Rule 416. Guardianships and Conservatorships

(a) Responsibility of Lawyer. Upon the appointment of a conservator or guardian of the estate, the appointee shall nominate a lawyer of record for that conservatorship or guardianship, or shall advise the court that he or she shall act pro se. The named lawyer shall be the lawyer of record until terminated by the conservator or guardian, or, with the consent of the court, by withdrawal of the lawyer. If the lawyer is terminated by the conservator or

guardian, written notice of substitution or pro se representation shall be given to the court (by the conservator or guardian, or by the lawyer who has received oral or written notice of termination), and until such notice, the former lawyer shall be recognized.

(b) Visitors in Guardianship and Conservatorship Proceedings. A visitor, as defined by law, may be appointed in every general guardianship or conservatorship proceeding.

Every visitor shall have training and experience in law, health care or social work, as the case may be, depending upon the circumstances of the proposed ward or conservatee.

The visitor shall be an officer of the court and shall be disinterested in the guardianship or conservatorship proceedings. If the court at any time determines that the visitor, or the firm or agency by which he or she is employed, has or had, at the time of the hearing, a conflict of interest, the court shall immediately appoint a new visitor and may, if necessary, require a hearing de novo.

The visitor shall, (a) without outside interferences, meet with the proposed ward or conservatee, either once or more than once as the visitor deems necessary, (b) observe his or her appearance, lucidity and surroundings, (c) serve, read aloud, if requested, and explain the petition and notice of hearing, (d) assist, if requested, in obtaining a private or court appointed lawyer, (e) advise the proposed ward or conservatee that a report will be filed at least five (5) days before the hearing and that the report is available to the proposed ward or conservatee or the ward's or conservatee's lawyer, (f) prepare a written report to the court setting forth all matters the visitor deems relevant in determining the need for a guardian or conservator, including recommendations concerning appointment and limitation of powers, (g) file the original report with the court and, (h) serve a copy upon the petitioner or petitioner's lawyer at least five (5) days prior to the hearing, (i) appear, testify and submit to cross examination at the hearing concerning his or her observations and recommendations, unless such appearance is excused by the court.

(c) Voluntary Petition. If an adult voluntarily petitions or consents to the appointment of a guardian or conservator of the estate as set forth in the law, then it is not necessary for such adult to be an "incapacitated person" as defined by the law.

(d) Amount of Bond. The court may, at any time, require the filing of a bond in such amount as the court deems necessary and the court, either on request of an interested party, or on its own motion, may increase or decrease the amount of the bond. The court, in requiring a bond, if any, or in determining the amount thereof, shall take into account not only the nature and value of the assets, but also the qualifications of the guardian or conservator.

(e) E-Filing Annual Accounts and Inventories; Effect of Allowance of Accounts. Conservators appointed by the court must electronically file their annual accounts and inventories using a computer process designated by the state court administrator. Directions for reporting shall be posted on the judicial branch website (www.mncourts.gov). The filing, examination and acceptance of an annual account, without notice of hearing, shall not constitute a determination or adjudication on the merits of the account, nor does it constitute the court's approval of the account.

(f) Required Periodic Settlement of Accounts. No order settling and allowing an annual or final account shall be issued by the court except on a hearing with notice to interested parties. A hearing for the settlement and allowance of an annual or final account may be ordered upon the request of the court or any interested party. A hearing shall be held for such purpose in each guardianship or conservatorship of the estate at least once every five years upon notice as set forth in the law, and the rules pursuant thereto. However, in estates of the value of \$20,000 or less, the five-year hearing requirement may be waived by the court in its discretion. Such five-year hearings shall be held within 150 days after the end of the accounting period of each fifth annual unallowed account and the court administrator shall notify such guardian or conservator, the guardian's or conservator's lawyer and the court if the hearing is not held within the 150-day period.

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

(h) Appearance on Petition for Adjudication of Accounts. When a verified annual or final account is filed in accord with the law and an adjudication is sought, and notice given as required by the law or waived as provided below, and the court determines that the account should be allowed, the account may be allowed upon the pleadings without appearance of the guardian or conservator. If the ward, conservatee or any interested person shall object to the account, or demand the appearance of the guardian or conservator for hearing on the account, at any time up to and including the date set for the hearing, the court will continue the hearing, if necessary, to a later date and require the appearance of the guardian/conservator for examination. Notice of hearing may be waived with the consent of all interested persons.

(i) Successor Guardian; Notice to Ward or Conservatee. The notice required by law shall include the right of the ward or conservatee to nominate and instruct the successor.

(Amended effective July 1, 2015.)

Rule 417. Trustees-Accounting-Petition For Appointment

[For text of 417.01 to 417.03, see M.S. 2014, Volume 15]

Rule 417.04 Service on Beneficiaries

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

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

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

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

(Amended effective July 1, 2015.)

[For text of 417.05, see M.S. 2014, Volume 15]

Rule 417.06 Hearing

Hearings upon annual accounts may be ordered upon the request of any interested party. A hearing shall be held on such annual accounts at least once every five years and notice shall be provided in accordance with Minnesota Statutes, section 501B.18, or its successor. In trusts of the value of \$50,000 or less, the five year hearing requirement may be waived by the court in its discretion. Any hearing on an account may be ex parte if each party in interest then in being shall execute waiver of notice in writing which shall be filed with the court administrator. Such five year hearings shall be held within 150 days after the end of

the accounting period of each fifth annual unallowed account, and the court administrator shall notify each trustee and the Court if the hearing is not held within such 150 day period.

(Amended effective January 1, 1993; amended effective July 1, 2015.)

Advisory Committee Comment - 1995 Amendment

Rule 417.02, as amended, refers to trustees subject to the continuing supervision of the district courts. The rule is intended to apply to all trusts subject to the continuing supervision of the district courts pursuant to Minnesota Statutes 1994, section 501B.23, and the earlier reference to jurisdiction is deleted to avoid confusion, since all Minnesota trusts are subject to the district court's jurisdiction.

Advisory Committee Comment - 2015 Amendments

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

Rule 417.06 is amended to incorporate the specific statutory notice required by Minnesota Statutes, section 501B.18, or its successor.

FORM 417.02 TRUSTEE'S ACCOUNTING**State of Minnesota****District Court**

COUNTY

JUDICIAL DISTRICT

CASE NO.

Case Type: _____

In the Matter of the Trust Created under Article
_____ of the Last Will of _____ .

ALTERNATIVE FOR INTER VIVOS TRUSTS:

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

TRUSTEE'S ANNUAL ACCOUNT

	<u>Principal</u>	<u>Income</u>
Assets on Hand as of _____ (Schedule 1)	\$	\$
Increases to Assets:		
Interest (Schedule 2)	\$ 0.00	\$
Dividends (Schedule 3)	\$ 0.00	\$
Capital gains distributions (Schedule 4)	\$	\$ 0.00
Gains on sales and other dispositions (Schedule 5)	\$	\$ 0.00
Return on capital (Schedule 6)	\$	\$ 0.00
Other increases (Schedule 7)	\$	\$
Decreases to Assets:		
Losses on sales and other dispositions (Schedule 8)	(\$)	(\$.00)
Administration expenses (Schedule 9)	(\$)	(\$)
Taxes (Schedule 10)	(\$)	(\$)
Trustee fees	(\$)	(\$)
Attorney fees	(\$)	(\$)
Other decreases (Schedule 11)	(\$)	(\$)
Balance Before Distributions	\$	\$
Distributions to Beneficiaries (Schedule 12)	(\$)	(\$)
Principal and Income Balances	\$ <u>0.00</u>	\$ <u>0.00</u>
Total Assets on Hand as of _____		\$ _____
(Income plus principal) (Schedule 13)		

Assets which realized a net income of less than 1% of their inventory values or acquisition costs are listed on Schedule 14.

[NAME OF TRUST]

ASSETS ON HAND

[Beginning DATE]

Schedule 1

	Market Value as of [DATE]	Values at Cost or Basis Principal	Values at Cost or Basis Income
Cash or Cash Equivalents			
Checking account	\$	\$	\$
Savings account	\$	\$	\$
Money market account	\$	\$	\$
Stocks and Bonds			
Stocks	\$	\$	\$ 0.00
Corporate bonds	\$	\$	\$ 0.00
Municipal bonds	\$	\$	\$ 0.00
Real Estate	\$	\$	\$ 0.00
Other Assets			\$
Life insurance policies (cash value)	\$	\$	\$
Other assets	\$	\$	\$
Total Assets on Hand as of [Date] _____	\$ 0.00	\$ 0.00	\$ 0.00

Note: This schedule reflects assets on hand at the beginning of the period. Identify each asset thoroughly. Provide the name of the bank and account number for each account holding cash or cash equivalents. Provide the number of shares or par value of each security. Provide the address of each parcel of real estate.

[NAME OF TRUST]

INTEREST

Schedule 2

	Income
Checking account(s)	
1.	\$
2.	\$
Savings account(s)	
1.	\$
2.	\$
Corporate bonds	
1.	\$
2.	\$
3.	\$
Municipal bonds	
1.	\$
2.	\$
3.	\$

Other interest	
1.	\$
2.	\$
3.	\$
Total Interest	<u>\$ 0.00</u>

Identify each interest-producing asset. List each bank account by name and account number.
Identify each bond or other asset that pays interest.

[NAME OF TRUST]

DIVIDENDS

Schedule 3

	<u>Income</u>
Stocks	
1	\$
2	\$
3	\$
4	\$
5	\$
6	\$
7	\$
8	\$
9	\$
10	\$
11	\$
12	\$
13	\$
14	\$
15	\$
Total Dividends	<u>\$ 0.00</u>

Identify each security that paid dividends.

[NAME OF TRUST]

CAPITAL GAINS DISTRIBUTIONS

Schedule 4

	<u>Principal</u>
Capital gains distributions:	
1	\$
2	\$
3	\$
4	\$
5	\$
6	\$
7	\$
8	\$
9	\$
10	\$
11	\$
12	\$

13

\$

14

\$

Total Capital Gains Distributions

\$ 0.00

Identify each security that paid dividends.

[NAME OF TRUST]

GAINS ON SALES AND OTHER DISPOSITIONS

Schedule 5

Principal

Sale of _____ shares of _____ :

Proceeds received

\$

Less cost or basis

(\$ _____)

\$ 0.00

Sale of _____ shares of _____ :

Proceeds received

\$

Less cost or basis

(\$ _____)

\$ 0.00

Sale of _____ shares of _____ :

Proceeds received

\$

Less cost or basis

(\$ _____)

\$ 0.00

Sale of _____ shares of _____ :

Proceeds received

\$

Less cost or basis

(\$ _____)

\$ 0.00

Sale of _____ shares of _____ :

Proceeds received

\$

Less cost or basis

(\$ _____)

\$ 0.00

Sale of _____ shares of _____ :

Proceeds received

\$

Less cost or basis

(\$ _____)

\$ 0.00

Sale of _____ shares of _____ :

Proceeds received

\$

Less cost or basis

(\$ _____)

\$ 0.00

Sale of _____ shares of _____ :

Proceeds received

\$

Less cost or basis

(\$ _____)

\$ 0.00

Sale of _____ shares of _____ :

Proceeds received

\$

Less cost or basis

(\$ _____)

\$ 0.00

Total Gains

\$ 0.00

[NAME OF TRUST]
RETURN OF CAPITAL

Schedule 6

	<u>Principal</u>
Return of capital:	
1.	\$
2.	\$
3.	\$
4.	\$
5.	\$
6.	\$
7.	\$
8.	\$
9.	\$
10.	\$
11.	\$
12.	\$
13.	\$
14.	\$
Total Return of Capital	<u>\$ 0.00</u>

Identify each security that paid a return of capital.

[NAME OF TRUST]
OTHER INCREASES

Schedule 7

	<u>Principal</u>	<u>Income</u>	
Securities added to trust by Settlor		\$	0.00
1	\$	\$	
2	\$	\$	
3	\$	\$	
4	\$	\$	
5	\$	\$	
6	\$	\$	
7	\$	\$	
8	\$	\$	
9	\$	\$	
Income transferred to principal	\$	\$	0.00
Other increases:			
1	\$	\$	
2	\$	\$	
3	\$	\$	
4	\$	\$	
5	\$	\$	
6	\$	\$	
7	\$	\$	
8	\$	\$	
9	\$	\$	
Total Other Increases	<u>\$ 0.00</u>	<u>\$ 0.00</u>	

[NAME OF TRUST]

LOSSES ON SALES AND OTHER DISPOSITIONS

Schedule 8

		<u>Principal</u>
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	<u>(\$)</u>	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	<u>(\$)</u>	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	<u>(\$)</u>	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	<u>(\$)</u>	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	<u>(\$)</u>	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	<u>(\$)</u>	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	<u>(\$)</u>	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	<u>(\$)</u>	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	<u>(\$)</u>	\$ 0.00
Total Losses		<u>\$ 0.00</u>

[NAME OF TRUST]
ADMINISTRATIVE EXPENSES

Schedule 9

	<u>Principal</u>	<u>Income</u>
Bank account fees	\$	\$
Check charges	\$	\$
Broker annual fees	\$	\$
Photocopies	\$	\$
Postage	\$	\$
Maintenance of real estate (schedule attached)	\$	\$
Other (schedule attached)	\$	\$
Total Administrative Expenses	<u>\$ 0.00</u>	<u>\$ 0.00</u>

[NAME OF TRUST]

TAXES

Schedule 10

	<u>Principal</u>	<u>Income</u>
Foreign dividend tax	\$ 0.00	\$
U.S. fiduciary income tax	\$	\$
Minnesota fiduciary income tax	\$	\$
Total Taxes	<u>\$ 0.00</u>	<u>\$ 0.00</u>

Note: The portion of fiduciary income tax allocated to capital gains is charged against principal. The portion of foreign dividend tax is allocated to income.

[NAME OF TRUST]

OTHER DECREASES

Schedule 11

	<u>Principal</u>	<u>Income</u>
Income transferred to principal	\$	\$ 0.00

Other decreases:

1.	\$	\$
2.	\$	\$
3.	\$	\$
4.	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$
8.	\$	\$

9.	\$	\$
10.	\$	\$
Total Other decreases	<u>\$ 0.00</u>	<u>\$ 0.00</u>

[NAME OF TRUST]

DISTRIBUTIONS TO BENEFICIARIES

Schedule 12

	<u>Principal</u>	<u>Income</u>
Name of each beneficiary and date and description of distribution:		
1.	\$	\$
2.	\$	\$
3.	\$	\$
4.	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$
8.	\$	\$
9.	\$	\$
10.	\$	\$
11.	\$	\$
12.	\$	\$
13.	\$	\$
14.	\$	\$
15.	\$	\$
Total Distributions to Beneficiaries	<u>\$ 0.00</u>	<u>\$ 0.00</u>

[NAME OF TRUST]

ASSETS ON HAND

[ending DATE]

Schedule 13

	<u>Market Value as of [DATE]</u>	<u>Values at Cost or Basis Principal</u>	<u>Values at Cost or Basis Income</u>
Cash or Cash Equivalents			
Checking account	\$	\$	\$
Savings account	\$	\$	\$
Money market account	\$	\$	\$
Stocks and Bonds			
Stocks	\$	\$	\$ 0.00
Corporate bonds	\$	\$	\$ 0.00
Municipal bonds	\$	\$	\$ 0.00

Real Estate	\$	\$	\$	0.00
Other Assets				
Life insurance policies (cash value)	\$	\$	\$	
Other assets	\$	\$	\$	
Total Assets on Hand as of [Date] _____	\$	0.00	\$	0.00
			\$	0.00

Note: This schedule reflects assets on hand at the end of the accounting period. Identify each asset thoroughly. Provide the name of the bank and account number for each account holding cash or cash equivalents. Provide the number of shares or par value of each security. Provide the address of each parcel of real estate.

[NAME OF TRUST]

ASSETS WHICH REALIZED A NET INCOME OF LESS THAN 1% OF THEIR
INVENTORY VALUES OR ACQUISITION COSTS

Schedule 14

Description of Asset	Amount of Net Income Realized	Income as Percentage of Cost/Basis
1.	\$	%
Reason why this asset should be retained:		
2.	\$	%
Reason why this asset should be retained:		
3.	\$	%
Reason why this asset should be retained:		
4.	\$	%
Reason why this asset should be retained:		
5.	\$	%
Reason why this asset should be retained:		

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minnesota Statutes, section 358.116.

Signed at: _____ County, _____
_____ State.

On _____, 20____.

Signature

Name _____

Agency or Business Name, if applicable: _____

Address _____

City/State/Zip _____

Telephone (_____) _____

Notarial Stamp or Seal (or Other Title or Rank)	Signed and sworn to (or affirmed) before me on (date) _____ by _____ and _____ , Trustees. _____ Signature of Notary Public or Other Official
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(Amended effective July 1, 2015.)

Rule 419. Electronic Service

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

(Added effective July 1, 2015.)

Advisory Committee Comment - 2015 Amendments

As the courts implement electronic filing and electronic service in more types of cases, electronic service using the court's system will increasingly be the most common means of service. Rule 14 defines how the e-filing and e-services systems operate and must be used.

Minnesota Statutes, sections 524.1-401 and 524.5-113, were amended by Minnesota Laws 2014, chapter 204, by addition of the following:

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

Rule 503. Computation of Time

(a) General. All time periods shall be measured by starting to count on the first day after any event happens which by these rules starts the running of a time period. The last day of the time period shall be included unless it is a:

- (1) Saturday,
- (2) Sunday,
- (3) legal holiday, or,

(4) when the act to be done is the filing of a document in court, a day on which weather or other conditions result in the closing of the office of the court administrator of the court where the action is pending, or

(5) where filing or service is either permitted or required to be made electronically, a day on which the unavailability of the computer system used by the court for electronic filing and service makes it impossible to accomplish service or filing, in which event the period runs until the end of the next day that is not one of the aforementioned days.

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

(c) Legal Holiday. For purposes of this rule, a legal holiday includes all state level judicial branch holidays established pursuant to law and any other day on which county offices in the county in which the conciliation court is held are closed pursuant to law or court order, and with respect to service or filing by U. S. mail, a day that the U. S. mail does not operate.

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

(Amended effective January 1, 2010; amended effective July 1, 2015.)

1993 Committee Comment

State level judicial branch holidays are defined in Minnesota Statutes 1990, section 645.44, subdivision 5, which includes: New Year's Day, January 1; Martin Luther King's Birthday, the third Monday in January; Washington's and Lincoln's Birthday, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Veteran's Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25. Section 645.44, subdivision 5, further provides that when New Year's Day, January 1; or Independence Day, July 4; or Veteran's Day, November 11; or Christmas Day, December 25; falls on Sunday, the following day shall be a holiday and that when New Year's Day, January 1; or Independence Day, July 4; or Veteran's Day, November 11; or Christmas Day, December 25; falls on Saturday, the preceding day shall be a holiday. Section 645.44, subdivision 5, also authorizes the judicial branch to designate certain other days as holidays. The 1992 Judicial Branch Personnel Plan designates the Friday after Thanksgiving as a holiday.

*Conciliation courts are housed in county buildings, and the county is authorized to close county offices on certain days pursuant to Minnesota Statutes 1990, section 373.052. Thus, if a county closes its offices under Minnesota Statutes, section 373.052, on a day that is not a state level judicial branch holiday, such as Christopher Columbus Day, the second Monday in October, the conciliation court in that county would nevertheless include that day as a holiday for the purpose of computing time under Rule 503. See *Mittelstadt v. Breider*, 286 Minn. 211, 175 N.W.2d 191 (1970) (applying Minnesota Statutes, section 373.052, to filing of notice of election contest with district court). If a county does not close its offices on a day that is a state level judicial branch holiday, such as the Friday after Thanksgiving, the conciliation court in that county must still include that day as a holiday for the purpose of computing time under Rule 503.*

Advisory Committee Comment - 2009 Amendment

*Rule 503(c) is amended to clarify that for service or filing by mail, if U. S. Postal Service offices are closed on a particular day, that day is not deemed a "working week day" for the purpose of the rule, effectively permitting the mailing to be made on the next day that is a "working week day." This change conforms the rule to the time calculation provision of Minn. R. Civ. P. 6.01, which in turn was amended in 2008 to conform the rule to the Minnesota Supreme Court decision in *Commandeur LLC v. Howard Hartry, Inc.*, 724 N.W.2d 508 (Minn. 2006) (holding that where the last day of a time period occurred on Columbus Day, service by mail permitted by the rules was timely if mailed on the following day on which mail service was available).*

Rule 504. Judge(s); Administrator; Reporting

(a) Judges. The judge(s) and, where authorized by statute, full and part time judicial officers and referees of the district court shall serve as judge(s) of conciliation court for such periods and at such times as the judge(s) shall determine. A judge, judicial officer, or referee so serving shall be known as a conciliation judge.

(b) Administrator.

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

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

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

(c) Reporting. Conciliation court trials and proceedings shall not be reported.

(Amended effective July 1, 2015.)

1993 Committee Comment

Rule 504(b)(2) requires court administrators to advise litigants of the availability of subpoenas under Rule 512(a). The required advice may be provided orally or in writing (e.g. on the litigant's copy of a court form, an accompanying instruction sheet, or in a brochure).

Rule 505. Commencement of Action

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

(Amended effective July 1, 2015.)

Rule 506. Fees; Affidavit in Lieu of Fees

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

(Amended effective July 1, 2015.)

1993 Committee Comment

Statewide conciliation court filing fees are established by the legislature (see Minnesota Statutes, section 357.022). The law library fee is established by the local law library board, and these fees typically range from \$0 to \$10. Minnesota Statutes 1990, section 134A.09, and Minnesota Statutes 1991 Supplement, section 134A.10. The fee waiver procedure under Rule 506 is essentially a clerical process, and the waiver applies to the conciliation court filing and law library fees only. The procedure for waiver of other fees [e.g. service fees under Rule 508(d)(3), subpoena fees under Rule 512(a), and removal/appeal fees under Rule 521(b)(4)] is set forth in Minnesota Statutes 1990, section 563.01, which requires a formal application to, and decision by, the court. Only a party who is a natural person may utilize the fee waiver procedures under section 563.01 and Rule 506.

Rule 507. Statement of Claim and Counterclaim; Contents; Verification

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

(b) Uniform Statement of Claim or Counterclaim; Acceptance by Court. A statement of claim or counterclaim in the uniform form as published by the state court administrator shall be accepted by any conciliation court administrator when properly completed and filed with the applicable fees, if any.

(Amended effective January 1, 2010; amended effective July 1, 2015.)

1993 Committee Comment

Rule 507(b) requires that all courts accept a statement of claim or counterclaim properly completed on the form set forth in the appendix. Rule 507(a) authorizes a court to tailor the forms that it makes available to litigants for use in that court or to approve forms prepared by the litigants. This rule allows both the court and the litigants to benefit from increased efficiency through the use of various preprinted forms and word processor or computer generated forms. Courts using tailored forms cannot, however, reject a statement of claim or counterclaim properly completed on the form set forth in the appendix.

Advisory Committee Comment - 2009 Amendment

Rule 507, 508, and 518 are amended to remove Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 from the rules and to correct the reference to the forms in the rule. This amendment will allow for the maintenance and publication of the forms by the state court administrator. The forms, together with other court forms, can be found at <http://www.mn-courts.gov>.

Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 should be deleted from the rules and maintained in the future on the court's Web site.

Rule 508. Summons; Trial Date

(a) Trial Date. When an action has been properly commenced, the court administrator shall set a trial date and prepare a summons. Unless otherwise ordered by a judge, the trial date shall not be less than ten (10) days from the date of mailing or service of the summons.

(b) Contents of Summons. The summons shall state the amount and nature of the claim; require the defendant to appear at the trial in person or if a corporation, by officer

or agent; shall specify that if the defendant does not appear judgment by default may be entered for the amount due the plaintiff, including fees, expenses and other items provided by statute or by agreement, and where applicable, for the return of property demanded by the plaintiff; and shall summarize the requirements for filing a counterclaim.

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

(d) Service on Defendant.

(1) If the defendant's address as shown on the statement of claim is within the county, the administrator shall summon the defendant by first class mail, except that if the claim exceeds \$2,500 the summons must be served by the plaintiff by certified mail, and proof of service must be filed with the administrator. If the summons is not properly served and proof of service filed within sixty (60) days after issuance of the summons, the action shall be dismissed without prejudice.

(2) If the defendant's address as shown on the statement of claim is outside the county but within the state, and the law provides for service of the summons anywhere within the state, the administrator shall summon the defendant by first class mail, except that if the claim exceeds \$2,500 the summons must be served by the plaintiff by certified mail, and proof of service must be filed with the administrator. If the summons is not properly served and proof of service filed within sixty (60) days after issuance of the summons, the action shall be dismissed without prejudice.

(3) If the defendant's address as shown on the statement of claim is outside the state, the administrator shall forward the summons to the plaintiff who, within sixty (60) days after issuance of the summons, shall cause it to be served on the defendant and file proof of service with the administrator. If the summons is not properly served and proof of service filed within sixty (60) days after issuance of the summons, the action shall be dismissed without prejudice. A party who is unable to pay the fees for 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.

(4) Service by mail, whether first class or certified, shall be effective upon mailing.

(e) Proof of Service.

Service by first class mail or certified mail shall be proven by an affidavit of service in form substantially similar to that published by the state court administrator. Service may be alternatively proven, when made by the court administrator, by any appropriate notation in the court record of the date, time, method, and address used by the administrator to effect service.

(f) Service by Electronic Means; When Complete; Proof of Service.

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

(Amended effective January 1, 2006; amended effective January 1, 2010; amended effective July 1, 2015.)

1993 Committee Comment

The territorial jurisdiction of conciliation court is limited to the county boundaries, and a summons cannot be issued outside the county except in certain situations, including: recovery of certain student loans by educational institutions located within the county; recovery of alleged dishonored checks issued within the county; certain claims arising out

of rental property located within the county; actions against two or more defendants when one defendant resides in the county; actions against foreign corporations doing business in this state; and actions against nonresidents other than foreign corporations when the state has jurisdiction under Minnesota Statutes, section 543.19. Minnesota Statutes 1993 Supplement, section 491A.01, subdivisions 3, 6 to 10. In situations in which the address of the defendant as shown on the statement of claim is outside the state, the summons is forwarded to the plaintiff who is then responsible for causing service of the summons on the defendant in the manner provided by law and filing proof of service with the court within sixty (60) days of issuance of the summons.

Various laws govern the service of a summons on nonresident defendants. See, e.g. Minnesota Statutes, sections 45.028 (foreign insurance entities doing business in this state); 303.13 (foreign corporations doing business in this state); 543.19 (other nonresident defendants subject to the jurisdiction of Minnesota's courts). The procedure under each of these laws is different, and it is the plaintiff's responsibility to ensure that the appropriate procedures are followed. For example, service on an unregistered foreign corporation pursuant to Minnesota Statutes 1991 Supplement, section 303.13, can be accomplished by delivering three copies of the summons to the secretary of state and payment of a \$35 fee. The secretary of state then mails a copy to the defendant corporation and keeps a record of the mailing. Rule 508(d) requires that the plaintiff file an affidavit of compliance which should be accompanied by the fee receipt from the secretary of state's office or a copy of the summons bearing the date and time of filing with the secretary of state. Service on an unregistered foreign insurance entity pursuant to Minnesota Statutes 1990, section 45.028, subdivision 2, may be accomplished by: (1) delivering a single copy of the summons to the commissioner of commerce (as of August 1, 1992, there is no filing fee); and (2) the plaintiff mailing a copy of the summons and notice of service to the foreign insurance company by certified mail; and (3) filing of an affidavit of compliance with the court. Service is not effective until all steps are completed, including the filing of the affidavit of compliance, which should be accompanied by receipts or other proof of mailing and filing with the commissioner of commerce. Finally, service on other nonresidents pursuant to Minnesota Statutes 1990, section 543.19, requires that the summons be "personally served" on the nonresident and proof of service filed with the court. Such "personal service" may only be made by a sheriff or any other person not less than eighteen (18) years of age who is not a party to the action. *Reichel v. Hefner*, 472 N.W.2d 346 (Minnesota Appellate 1991) (applying Minn. R. Civ. P. 4.02 for the district courts).

When service on a foreign corporation has been made under Minnesota Statutes, section 303.13, through the Office of the Secretary of State, the defendant corporation so served shall have thirty (30) days from the date of mailing by the secretary of state in which to answer the complaint. Thus, the conciliation court trial date must be scheduled to allow the defendant the full thirty (30) days to appear. Similarly, when certain foreign insurance entities are served under Minnesota Statutes, section 45.028, subdivision 2, the law also provides a 30-day response period [see, e.g., Minnesota Statutes, section 64B.35, subdivision 2 (fraternal benefit societies)] or prohibits default judgments until the expiration of thirty (30) days from the filing of the affidavit of compliance. [Minnesota Statutes, section 60A.21, subdivision 1, clause (4) (unauthorized foreign insurer)].

Rule 508(d) recognizes that in most situations involving resident defendants, first class mail is a sufficient method of notifying the defendant of the claim. If for some reason the summons cannot be delivered by mail, the last sentence of Rule 508(a) recognizes that personal service of the summons pursuant to the rules of civil procedure for the district court is always an effective means of providing notice of the claim. The party filing the claim is responsible for obtaining personal service, including any costs involved. As indicated above, "personal service" may only be made by a sheriff or any other person not less than eighteen (18) years of age who is not a party to the action.

The provisions requiring service by certified mail were added in order to make the rules consistent with statutes. See Minnesota Statutes 1993 Supplement, section 491A.01,

subdivision 3, paragraph (b). If the claim exceeds \$2,500, the plaintiff is responsible for causing service of the summons on the defendant by certified mail, and filing proof of service with the court within sixty (60) days of issuance of the summons.

Advisory Committee Comment - 2006 Amendment

Rule 508(d)(4) is a new provision, intended to remove any confusion in the rule over when service by mail is deemed complete. This question is important in determining questions of timing. Making service effective upon mailing is consistent with the provisions of Minn. R. Civ. P. 5.02 and Minn. R. Civ. App. P. 125.03.

The rule has historically required proof of service, but has not specified how service is proven. Rule 508(e) specifies that an affidavit of service should be prepared in form substantially similar to new Form 508.1 to prove service by anyone other than the court administrator. Where the rule requires the administrator to effect service by mail or certified mail, it is not necessary to require an affidavit of the administrator to prove service, and Rule 508(e) recognizes that a notation of the facts of service in the court's file will suffice to prove that service was effected.

Some courts follow the practice of using certified mail receipts as proof of service. In fact these receipts generally only prove receipt of the mailing, not the mailing itself. Although proof of receipt may be important if a question arises as to the effectiveness of service, it is not an adequate substitute for proof of the facts of service, including the date of mailing.

Rule 509. Counterclaim

(a) Counterclaims Allowed. The defendant may assert a counterclaim within jurisdiction of conciliation court which the defendant has against the plaintiff, whether or not arising out of the transaction or occurrence which is the subject matter of plaintiff's claim.

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

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

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

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

(d) Late Filing. No counterclaim shall be heard if filed less than five days before the trial date of plaintiff's claim except by permission of the judge, who has discretion to allow a filing within the five-day period. Should a continuance be requested by and granted to plaintiff because of the late filing, the judge may require payment of costs by defendant, absolute or conditional, not to exceed \$50.

(Amended effective July 1, 2015.)

Rule 510. Counterclaim in Excess of Court's Jurisdiction

(a) The court administrator shall strike plaintiff's action from the calendar if the defendant not less than five days of the date set for trial of plaintiff's claim, files with the court administrator an affidavit stating that:

(1) the defendant has a counterclaim against plaintiff arising out of the same transaction or occurrence as plaintiff's claim, the amount of which is beyond monetary jurisdiction of the conciliation court, and

(2) the defendant has commenced or will commence within 30 days an action against plaintiff in a court of competent jurisdiction based on such claim.

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

(c) Absolute or conditional costs, not to exceed \$50, may be imposed against the defendant if the defendant fails to commence an action as provided in paragraph (a)(2) of this rule, and the court determines that the defendant caused the plaintiff's action to be stricken from the calendar in bad faith or solely to delay the proceedings or to harass.

(Amended effective July 1, 2015.)

Rule 514. Notice of Order for Judgment

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

(Amended effective July 1, 2015.)

1993 Committee Comment

Rules 515, 520(a), and 521(b) of these rules establish a uniform 20-day time period for obtaining an order to vacate or for removing the case to district court. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992) (construing Minn. R. Civ. P. 6.05). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Minn. R. Civ. P. 6.05.

Rule 515. Entry of Judgment

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

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

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

(Amended effective July 1, 2015.)

1993 Committee Comment

Rule 515 provides that a judgment becomes finally effective 20 days after notice of judgment is mailed to the parties, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992) (construing Minn. R. Civ. P. 6.05). Computing the effective date of the judgment can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Minn. R. Civ. P. 6.05. The purpose of the 20-day time period specified in Rule 515 is to permit a party to obtain an order to vacate under Rule 520(a) or effect removal of the case to district court under Rule 521(b).

The legislature has determined that any judgment ordered may provide for satisfaction by payment in installments in amounts and at such times, not exceeding one year for the last installment, as the judge determines to be just and reasonable. Minnesota Statutes 1993 Supplement, section 491A.02, subdivision 5. Rule 512(e) recognizes that the one-year limit on installment payments may be waived by the parties as part of a settlement.

Rule 520. Vacation of Judgment Order and Judgment

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

(b) Vacation of Judgment After 20 Days. A default judgment may be vacated by the judge upon a proper showing by the defendant that: (1) the defendant did not receive a summons before the trial within sufficient time to permit a defense and did not receive notice of the order for default judgment within sufficient time to permit application for relief within 20 days after notice, or (2) upon other good cause shown. Application for relief pursuant to this Rule 520(b) shall be made within a reasonable time after the applicant learns of the existence of the judgment and shall be made by motion in accordance with the procedure governing motions in the district court, except that the motion is filed with the court administrator of conciliation court. The order vacating the judgment shall grant a new trial on the merits and may be conditioned upon payment of absolute or conditional costs not to exceed \$50.

(c) Notice. The court administrator shall promptly transmit a notice of a new trial date to the parties.

(Amended effective July 1, 2015.)

1993 Committee Comment

Rule 520(a) establishes a 20-day time period for obtaining an order to vacate a default judgment order or order for judgment of dismissal. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992) (construing Minn. R. Civ. P. 6.05). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Minn. R. Civ. P. 6.05.

Rule 520(a) authorizes an informal, ex parte proceeding (involving appearance of one party only), which typically includes the presentation of an affidavit establishing lack of notice, mistake, inadvertence or excusable neglect as the cause of that party's failure to appear. In contrast, Rule 520(b) requires compliance with the formal requirements for making

a motion in the district court. See Minn. R. Civ. P. 4.02, 5.02, 6.05; Minn. Gen. R. Prac. for the District Courts 115.01, 115.02, 115.04 to 115.10. Forms and instructions are available from the conciliation court.

Rule 521. Removal (Appeal) to District Court

(a) Trial de novo. Any person aggrieved by an order for judgment entered in conciliation court after contested trial may remove the cause to district court for trial de novo (new trial). An "aggrieved person" may be either the judgment debtor or creditor.

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

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

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

(3) File with the court administrator an affidavit by the aggrieved party or that party's lawyer stating that the removal is made in good faith and not for purposes of delay.

(4) Pay to the court administrator as the fee for removal the amount prescribed by law for filing a civil action in district court, and if a jury trial is demanded under Rule 521(b)(1) of these rules, pay to the court administrator the amount prescribed by law for requesting a jury trial in a civil action in district court. A party who is unable to pay the fees may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

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

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

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

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

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

(e) Limited Removal.

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

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

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

(Amended effective January 1, 1998; amended effective March 1, 2001; amended effective January 1, 2005; amended effective July 1, 2015.)

Cross Reference: Minn. R. Civ. P. 4.02, 4.06, 5.02, 6.01, 6.02, and 6.05.

1993 Committee Comment

Rule 521(b) establishes a 20-day time period for removing the case to district court. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992) (construing Minn. R. Civ. P. 6.05). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Minn. R. Civ. P. 6.05.

In district court, personal service may only be made by a sheriff or any other person not less than 18 years of age who is not a party to the action. Reichel v. Hefner, 472 N.W.2d 346 (Minn. App. 1991). This applies to personal service under this Rule 521. Service may not be made on Sunday, a legal holiday, or election day. Minnesota Statutes 1990, sections 624.04; 645.44, subdivision 5; Minnesota Constitution, article VII, section 4.

Advisory Committee Comment - 1997 Amendment

Rule 521(e)(1), as amended in 1997, allows limited removal to district court from a denial of a motion to vacate the order for judgment or judgment made pursuant to Rule 520(a) or (b). To obtain limited removal under Rule 521(e)(1), a party must follow the same procedural steps for obtaining removal under Rule 521(b), except that the event that triggers the 20-day time period for effecting removal is the date that the court administrator mails the notice of denial of the motion to vacate the order for judgment or judgment. The

law requires that an additional three days be added to the time period when notice is served by mail. *Wilkins v. City of Glencoe*, 479 N.W.2d 430 (Minn. App. 1992).

Advisory Committee Comment - 2000 Amendment

Under Rule 521(b)(1) as amended in 2000, if the party seeking to remove (appeal) the case to district court is a corporation, the demand for removal must be signed by an attorney authorized to practice law in the district court. This requirement simply restates a requirement recognized by court decision. See World Championship Fighting, Inc. v. Janos, 609 N.W.2d 263 (Minn. App. 2000), rev. denied (Minn. July 25, 2000). A corporation must be represented by a licensed attorney in district court regardless of the fact that the action originated in conciliation court. See Nicollet Restoration, Inc. v. Turnham, 486 N.W.2d 753 (Minn. 1992).

Advisory Committee Comment - 2004 Amendment

Rule 521(d) is amended in 2004 to clarify its application in a situation where one of several co-parties (either co-plaintiffs or co-defendants) removes (appeals) a conciliation court decision while another co-party does not take that action. The committee believes that the conciliation court judgment should become final against any party who does not remove the case and in favor of any party against whom removal is not sought.

Rule 521 establishes an approved and effective means of service by mail to accomplish removal of a conciliation court case to district court for trial de novo. By decision in 2004, the Minnesota Supreme Court held that a party may also rely on the different means of service by mail contained in Minn. R. Civ. P. 4.05. See Roehrdanz v. Brill, 682 N.W.2d 626 (Minn. 2004). Because service under that rule may require a signed receipt from the party being served, such service may not be effective.

Rule 611. Review of Referee's Decision

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

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

(b) Stays. In civil cases, filing and service of a notice of review does not stay entry of judgment nor vacate a judgment if already entered unless the petitioner requests and the referee orders a bond, payment(s) in lieu of a bond, or waiver of bond and payment(s). The decision to set or waive a bond or payment(s) in lieu of bond shall be based upon Minn. R. Civ. App. P. 108, subdivisions 1 and 5. A hearing on a bond or payment(s) in lieu of bond shall be scheduled before the referee, and the referee's order shall remain in effect unless a judge modifies or vacates the order.

In criminal cases, the execution of judgment or sentence shall be stayed pending review by the judge.

(c) Transcripts. The petitioner must obtain a transcript from the referee's court reporter. The petitioner must make satisfactory arrangements for payment with the court reporter or arrange for payment in forma pauperis.

Any transcript request by the petitioner must be made within one day of the date the notice of review is filed. The transcript must be provided within five business days after its purchase by the petitioner.

For good cause the reviewing judge may extend any of the time periods described in this Rule 611(c).

(Amended effective July 1, 2015.)

Rule 703. Certificates of Representation

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

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

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

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

(Amended effective July 1, 2015.)

Task Force Comment - 1991 Adoption

This rule is derived from 4th Dist. R. 8.05.

The Minnesota Supreme Court Advisory Committee on Rules of Criminal Procedure recommended that this local rule be incorporated in the General Rules of Practice for the District Courts for uniform statewide application and the Task Force concurs in that recommendation.

Rule 809. Discrimination Prohibited

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

(Amended effective January 1, 1994; amended effective July 1, 2015.)

Advisory Committee Comment - 1994 Amendment

This rule is amended to add "physical or sensory disability" as types of discrimination specifically prohibited by the rule. This amendment is made to conform the rule to the legislative mandate against discrimination on these bases adopted by the legislature in 1992 and at Minnesota Statutes, section 593.32, subdivision 1.

Advisory Committee Comment - 2015 Amendments

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

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 Minn. R. Civ. P. 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 to 245.4888; 256B.77; 494.01 to 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 juvenile protection matters set forth in Minn. R. Juv. Prot. P. 2.01, 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 matters set forth in Minnesota Rules of Juvenile Delinquency Procedure.

(Amended effective January 1, 1999; amended effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

2015 Advisory Committee Comment

Minnesota Statutes, section 480.35, created the State Guardian ad Litem Board effective July 1, 2010. At that time, administration and oversight of the qualifications, recruitment, screening, training, selection, supervision, and evaluation of guardians ad litem transferred from the Office of the State Court Administrator to the State Guardian ad Litem Board. These administrative and oversight procedures are now addressed in the Guardian ad Litem Program Requirements and Guidelines (Non-statutory), formerly titled the Guardian ad Litem System Program Standards or Program Standards manual. It is the responsibility of the Board to prepare the Requirements and Guidelines (Non-statutory). The minimum standards set forth in the previous rules are to be maintained in the Requirements and Guidelines (Non-statutory), along with procedures governing complaints about the performance of a guardian ad litem. Also included are standards regarding knowledge and appreciation of the prevailing social and cultural standards of Indian and other minority communities. The Requirements and Guidelines (Non-statutory) are published in both print and electronic formats and are available to the public on the State Guardian ad Litem Board website <http://mn.gov/guardian-ad-litem>.

Rule 901.02 Implementation

The State Guardian ad Litem Board shall be responsible for insuring the implementation of the Rules of Guardian ad Litem Procedure. The responsibilities set forth in the Rules of Guardian ad Litem Procedure shall be carried out at the direction of the Program Administrator.

(Amended effective January 1, 1999; amended effective January 1, 2005; amended effective July 1, 2015.)

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 Program Requirements and Guidelines (Non-statutory) System Program Standards as established by the State Guardian ad Litem Board. The Requirements and Guidelines

(Non-statutory) shall be published in print and electronic forms and be available to the public.

(Amended effective January 1, 1999; amended effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

2015 Advisory Committee Comment

The Guardian Ad Litem Requirements and Guidelines (Non-statutory), formerly titled the Program Standards, are available on the State Guardian ad Litem Board website <http://mn.gov/guardian-ad-litem>.

Rule 903. Appointment of Guardian Ad Litem

[For text of 903.01, see M.S. 2014, 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, subdivision 6, paragraph (a), and 260C.331, subdivision 6, paragraph (a), and as established by the State Guardian ad Litem Board; and
- (c) in an adoption proceeding, authorization for the guardian ad litem to review and receive a copy of the adoption study report under Minn. R. Adoption P. 37 and the post-placement assessment report under Minn. R. Adoption P. 38 to the extent permitted by Minnesota Statutes, section 259.53, subdivision 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, subdivision 5, paragraph (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 January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

Advisory Committee Comment - 2004 Amendment

Rule 903.02 prohibits appointment as a guardian ad litem in a juvenile court case any individual, or the individual's agent, who has filed the initial petition in the case. The Rule is also intended to prohibit an individual serving as a guardian ad litem in both a family court

matter and a juvenile court matter involving the same child, if the family court guardian ad litem has filed the initial petition in the juvenile court matter. The Rule does not prohibit a guardian ad litem already serving in a juvenile court matter from continuing to serve if, in the course of the case, the guardian ad litem files a petition or other pleadings.

Advisory Committee Comment - 2006 Amendment

If 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).

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.

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, subdivision 2, paragraph (a), and 518.165, subdivision 3, paragraph (a), and as established by the State Guardian ad Litem Board.

(Amended effective January 1, 1999; renumbered and amended effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

Rule 903.04 Other Roles Precluded

Subdivision 1. Generally. A guardian ad litem under the supervision of the State Guardian ad Litem Board 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 General Rules of Practice for the District Courts; or
- (g) arbitrator or individual authorized to decide disputes between parties; or
- (h) parenting time expeditor, as that role is prescribed in Minnesota Statutes, section 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, section 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 State Guardian ad Litem Board 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 General Rules of Practice for the District Courts.

(Added effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

Rule 904. Removal or Suspension of Guardian Ad Litem from Particular Case

Rule 904.01 Use of Complaints and Investigation Reports

Unless offered into evidence by the guardian ad litem or authorized by written order following an *in camera* review by the court, neither any complaints about the performance of a guardian ad litem, nor any reports of any investigation of such complaints, shall 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 January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015; amended effective July 1, 2015.)

Rule 904.02 Removal or Suspension of Guardian Ad Litem from Particular Case

A guardian ad litem appointed to serve in a particular case may be removed or suspended from the case only by order of the presiding judge. Removal or suspension may be upon initiation of the presiding judge or after hearing upon the motion of a party pursuant to Rule 904.03.

(Amended effective January 1, 1999; renumbered and amended effective January 1, 2005; amended effective July 1, 2015.)

Rule 904.03 Motion to Remove Filed by Party

A party to the case who wishes to seek the removal or suspension of a guardian ad litem for cause must proceed by written motion before the judge presiding over the case. A motion to remove or suspend a guardian ad litem for cause shall be served upon the parties and the guardian ad litem and filed and supported in compliance with the applicable rules of court. At the time the motion is served, a copy of the motion and all supporting documents shall be provided to the district guardian ad litem manager by the party making the motion.

(Amended effective July 1, 2015.)

Rule 904.04 Mandatory Removal By Presiding Judge

The presiding judge shall remove a guardian ad litem from a particular case:

(a) when it is shown by written communication from the district guardian ad litem manager or the manager's designee that the guardian ad litem has been removed from the state program for cause; or

(b) upon notice of any felony, gross misdemeanor, or misdemeanor conviction of the guardian ad litem of an offense involving children or domestic assault; or

(c) upon notice of a finding by the Minnesota Department of Human Services of maltreatment of a child by the guardian ad litem.

(Amended effective July 1, 2015.)

Rule 904.05 Permissive Removal By Presiding Judge

The presiding judge may remove or suspend a guardian ad litem from a particular case:

(a) for failure to comply with a directive of the court, including provisions of the order appointing the guardian ad litem; or

(b) for failure to comply with the responsibilities set forth in these Rules; or

(c) upon notice of formal sanction of the guardian ad litem by any professional or occupational licensing board; or

(d) upon formal request from the district guardian ad litem program for good cause; or

(e) for other good cause shown.

As an alternative to removal or suspension from a specific case, the presiding judge may ask the district guardian ad litem manager to provide appropriate remedial action for the guardian ad litem.

(Amended effective July 1, 2015.)