

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8009 (formerly CX-89-1863)

PROMULGATION OF AMENDMENTS  
TO THE MINNESOTA GENERAL RULES OF PRACTICE  
FOR THE DISTRICT COURTS RELATING TO FAMILY  
COURT MATTERS AND THE PILOT PROJECT ON AUDIO AND  
VIDEO COVERAGE IN CERTAIN CIVIL COURT PROCEEDINGS

**ORDER**

In its report filed September 28, 2011, the Supreme Court Advisory Committee on the General Rules of Practice recommended amendments to the General Rules of Practice for the District Courts relating to family court matters and the pilot project on audio and video coverage of certain civil court proceedings. This Court established a deadline of November 14, 2011, for submitting comments on the proposal. The Supreme Court has reviewed the proposals and the submitted comments, and is fully advised in the premises.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached amendments to the General Rules of Practice for the District Courts be, and the same hereby are, prescribed and promulgated to be effective on May 1, 2012.
2. The attached amendments shall apply to all actions pending on the effective date and to those filed thereafter.
3. The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the comments made therein.

DATED: January 19, 2012

BY THE COURT:

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Lorie S. Gildea  
Chief Justice

**Amendments to the Minnesota General Rules of Practice for the District Courts:**

[Note to publishers: Deletions are indicated by a line drawn through the text; additions are underlined. Markings are omitted for the new advisory committee comments, regardless of their derivation.]

1 **Rule 4.03. Procedures Relating to Requests for Audio or Video Coverage of**  
2 **District Court Proceedings**

3 (a) **Notice.** Unless notice is waived by the trial judge, the media shall provide  
4 written notice of their intent to cover district court proceedings by either audio or video  
5 means to the trial judge, all counsel of record, and any parties appearing without counsel  
6 as far in advance as practicable, and at least 10 days before the commencement of the  
7 hearing or trial. In civil proceedings subject to the pilot project authorized by supreme  
8 court order, the media shall also notify their respective media coordinator identified as  
9 provided under part (e) of this rule of the request to cover proceedings in advance of  
10 submitting the request to the trial judge, if possible, or as soon thereafter as possible.

11 (b) **Objections in Civil Cases.** In civil proceedings, if a party opposes audio  
12 or video coverage, the party shall provide written notice of the party's objections to the  
13 presiding judge, the other parties, and the media requesting coverage as soon as  
14 practicable, and at least 3 days before the commencement of the hearing or trial in cases  
15 where the media have given at least 10 days' notice of their intent to cover the  
16 proceedings. The judge shall rule on any objections and make a decision on audio or  
17 video coverage before the commencement of the hearing or trial. However, the judge has  
18 the discretion to limit, terminate, or temporarily suspend audio or video coverage of an  
19 entire case or portions of a case at any time.

20 (c) **Witness Information and Objection to Coverage.** At or before the  
21 commencement of the hearing or trial in cases with audio or video coverage, each party  
22 shall inform all witnesses the party plans to call that their testimony will be subject to  
23 audio or video recording unless the witness objects in writing or on the record before  
24 testifying.

25 (d) **Appeals.** No ruling of the trial judge relating to the implementation or  
26 management of audio or video coverage under this rule shall be appealable until the trial  
27 has been completed, and then only by a party.

28 (e) **Media Coordinators for Civil Pilot Project.** For civil proceedings  
29 subject to the pilot project authorized by order of the supreme court, media coordinators  
30 for various areas of the state shall be identified on the main state court web site. The  
31 media coordinators shall facilitate interaction between the courts and the electronic media  
32 during the course of the pilot project. Responsibilities of the media coordinators include:

33 (i) Compiling basic information (e.g., case identifiers, judge, parties,  
34 attorneys, dates and coverage duration) on all requests for use of audio or video  
35 coverage of civil trial court proceedings for their respective court location(s) as  
36 identified on the main state court web site, and making aggregate forms of the  
37 information publicly available;

38 (ii) Notifying the Minnesota Court Information Office of all requests for  
39 audio and video coverage of civil trial court proceedings for their respective court  
40 location(s) as identified on the main state court web site;

41 (iii) Explaining to persons requesting video or audio coverage of civil trial  
42 court proceedings for their respective court location(s) the local practices,  
43 procedures, and logistical details of the court related to audio and video coverage;

44 (iv) Resolving all issues related to pooling of cameras and microphones  
45 related to video or audio coverage of civil trial court proceedings for their  
46 respective court location(s);

47 (v) Making available to participants in the pilot project survey information  
48 as directed by the supreme court's advisory committee on the general rules of  
49 practice.

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53 **TITLE IV. RULES OF FAMILY COURT PROCEDURE**

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55 **PART A. PROCEEDINGS, MOTIONS, AND ORDERS**

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57 **Rule 301. ~~Applicability of Rules~~ Scope; Time**

58 301.01 Applicable Statute or Rule

59 301.02 Time

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61 **RULE 301. SCOPE; TIME**

62 **Rule 301.01 Applicability of Rules**

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64 **Rule 302. ~~Commencement; Continuance; Time; Parties~~**

65 302.01 Commencement of Proceedings

66 302.02 ~~Continuances~~

67 ~~—302.03—Time~~

68 ~~—302.04—Designation of Parties~~

69 **Rule 303. ~~Motions; Ex Parte~~ Emergency Relief; Orders to Show Cause; ~~Orders~~**  
70 **~~and Decrees~~**

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73	303.03	Motion Practice
74	303.04	Ex Parte <u>and Emergency</u> Relief
75	303.05	Orders to Show Cause
76	<del>303.06</del>	<del>Orders and Decrees Requiring Child Support or Maintenance</del>
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79	304.02	<del>The Party's Informational Statement</del> <u>Initial Case Management Statement</u>
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81	304.04	Amendment
82	304.05	Collaborative Law
83	304.06	<u>Continuances</u>
84	<b>Rule 305.</b>	<b><del>Prehearing</del> <u>Pretrial</u> Conferences</b>
85	305.01	<del>Prehearing</del> <u>Parenting/Financial Disclosure</u> Statement
86	305.02	<del>Prehearing</del> <u>Pretrial</u> Conference Attendance
87	305.03	<del>Prehearing</del> <u>Conference</u> Order for Trial or Continued Pretrial Conference
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89	306.01	Scheduling of Final Hearing
90	306.02	Preparation of Decree [ <u>Abrogated</u> ]
91	<b>Rule 307.</b>	<b>Final Hearings</b>
92	<b>Rule 308.</b>	<b><u>Final Order, Judgment or Decree</u></b>
93	308.01	Notices; Service
94	308.02	Statutorily Required Notices
95	308.03	Sensitive Matters
96	308.04	Joint Marital Agreement and Decree
97	<b>Rule 309.</b>	<b>Contempt</b>
98	309.01	Initiation
99	309.02	Hearing
100	309.03	Sentencing
101	309.04	<u>Findings</u>
102	<b>Rule 310.</b>	<b>Alternative Dispute Resolution</b>
103	310.01	Applicability
104	310.02	Post-Decree Matters
105	310.03-.09	[Deleted effective July 1, 1997]
106	<b>Rule 311.</b>	<b>Forms</b>
107	<b>Rule 312.</b>	<b>Review of Referee's Findings or Recommendations</b>
108	<del>312.01</del>	<del>Notice of Assignment to Judge; Parties' Submissions</del>
109	<del>312.02</del>	<del>Transcript of Referee's Hearing</del>
110	<b>Rule 313.</b>	<b>Confidential Numbers and Tax Returns</b>
111	<b>Rule 314.</b>	<b><u>Parentage Proceedings</u></b>

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113 **APPENDIX OF FORMS**

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115 ~~Effective January 1, 2008, a~~ All forms previously contained in Title IV have been  
116 deleted from the rules. Family Court Action forms are currently maintained on the state  
117 court website (www.mncourts.gov).

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## PART A. PROCEEDINGS, MOTIONS, AND ORDERS

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### RULE 301. SCOPE; TIME

#### 121 **Rule 301.01 Applicability of Rules**

122 **(a) Applicable Rule or Statute.** Rules 301 through 313~~4~~ and, where applicable,  
123 the Minnesota Rules of Civil Procedure, shall apply to ~~family law practice~~ Family Law  
124 Actions except where they are in conflict with applicable statutes or the Expedited Child  
125 Support Process Rules, Minn. Gen. R. Prac. 351 through 379.

126 **(b) Included Proceedings.** ~~Rules 301 through 313 do not apply to proceedings~~  
127 ~~commenced in the Expedited Child Support Process, except for Rules 302.04, 303.05,~~  
128 ~~303.06, 308.02, and 313.~~ The following types of proceedings are referred to in these rules  
129 as Family Court Actions:

130 1. Marriage dissolution, legal separation, annulment proceedings, and child

131 custody actions (Minnesota Statutes, chapter 518, and section 260C.201, subd.

132 11(d)(1)(iii));

133 2. Child custody enforcement proceedings (Minnesota Statutes, chapter

134 518D);

135 3. Domestic abuse proceedings (Minnesota Statutes chapter 518B);

136 4. Proceedings to determine or enforce child support obligations  
137 (Minnesota Statutes, chapters 518A, 518C- U.I.F.S.A., sections 256.87; 289A.50,  
138 subd. 5; and 393.07, subd. 9);

139 5. Contempt proceedings in Family Court (Minnesota Statutes, chapter  
140 588);

141 6. Parentage determination proceedings (Minnesota Statutes, sections  
142 257.51-.74);

143 7. Proceedings for support, maintenance or county reimbursement  
144 judgments (Minnesota statutes, section 548.091);

145 8. Third-party custody proceedings (Minnesota Statutes, chapter 257C);  
146 and

147 9. Proceedings pursuant to the Hague Convention on Civil Aspects of  
148 International Child Abductions and the International Child Abduction Remedies  
149 Act.

150 Other matters may be treated as family court matters by order of the court.

151 **(c) Excluded proceedings.** Rules 301 through 314 do not apply to proceedings  
152 commenced in the Expedited Child Support Process, except for Rules 302.02, 303.05,  
153 308.02, 309, 313, and 314.

154 **(d) Applicability of Rules of Civil Procedure.** The Minnesota Rules of Civil  
155 Procedure apply to Family Court Actions as to matters not addressed by these rules. To  
156 the extent there is any conflict in the rules, these rules govern.

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**Advisory Committee Comment--2012 Amendments**

Rules 301 through 314 were originally derived primarily from the Rules of Family Court Procedure as they existed in 1992. These rules have been revised in several important ways in the ensuing years, and were revised and completely restated in 2011. The prior Advisory Committee Comments have been incorporated into a single set of Advisory Committee Comments for the benefit of the Minnesota Supreme Court as well as for courts and litigants. As is consistently made clear by the orders that have amended the rules, the Advisory Committee Comments are not adopted by the Supreme Court and do not have any official status. They reflect the views of the Supreme Court’s advisory committees that have recommended amendments of the rules from time to time.

Rules 301 through 314 apply in the enumerated proceedings, comprising the majority of types of cases involving family relations. Adoption proceedings are governed by separate Rules of Adoption Procedure, adopted effective January 1, 2005.

Minn. R. Gen. Prac. 351.01 states that the Rules of Civil Procedure, Rules of Evidence, and General Rules of Practice shall apply to proceedings in the expedited process unless inconsistent with the Expedited Child Support Rules, Minn. Gen. R. Prac. 351 through 379. With the exception of Family Court Rules 302.02, 303.05, 308.02, 309, 313 and 314, Rules 301-314 are inconsistent with the Expedited Child Support Rules and therefore do not apply to the expedited process.

**Rule 301.02 Time**

Computation of time under these rules is governed by Rule 6 of the Minnesota

Rules of Civil Procedure.

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**Advisory Committee Comment--2012 Amendments**

The rules relating to computation of time are critical, and it is important that they be clear and predictable to all users of the court system. Rule 6 of the Minnesota Rules of Civil Procedure provides the appropriate clarity and makes it expressly applicable in family matters thereby eliminating any room for confusion. Rule 6 is consistent with the general day-counting rules set forth in Minn. Stat. § 645.15, and provides additional guidance for counting days where the periods of time are short and for responding to papers served by mail, or facsimile.

The time periods in the rules are intended to apply in most situations. Where unusual circumstances exist and justice so requires, the court may shorten the time limits. See Rule 1.02 of these rules.

**~~RULE 302. COMMENCEMENT; CONTINUANCE; TIME; PARTIES~~**

**Rule 302.01 Commencement of Proceedings**

~~(a) Service. Marriage dissolution, legal separation and annulment proceedings~~

**Methods of Commencement. Family Court Actions shall be commenced by service of a**

204 summons and petition ~~upon the person of the~~ or other party, by alternate means  
205 ~~authorized by statute, or by publication pursuant to court order. Service in other family~~  
206 ~~court proceedings shall be governed by the rules of civil procedure.~~ upon the person of  
207 the other party. Commencement can be accomplished by the following means:

208 (1) Personal Service. The summons and petition may be served upon the  
209 person of the party to be served.

210 (2) Admission/Acknowledgment. Service may be accomplished when the  
211 party to be served signs an admission of service or acknowledges service as permitted in  
212 Minn. R. Civ. P. 4.05.

213 (3) Alternate Means. Service of the summons and petition may be ~~made~~  
214 accomplished by alternate means as authorized by statute.

215 (4) Publication. Service of the summons and petition may be made by  
216 publication only upon an order of the court. If the respondent subsequently is located and  
217 has not been served personally or by alternate means, personal service shall be made  
218 before the final hearing.

219 **(b) Service After Commencement.** After a Family Law Action has been  
220 commenced, service may be accomplished in accordance with Minn. R. Civ. P. 5.

221 **~~(b)-(c)~~ Joint Petition in Marriage Dissolution Proceedings.**

222 (1) No summons shall be required if a joint petition is filed to commence  
223 marriage dissolution proceedings. Proceedings shall be deemed commenced when both  
224 parties have signed the verified petition.

225 (2) Where the parties to a marriage dissolution proceeding agree on all  
226 issues, the parties may proceed using a joint petition, agreement, and judgment and  
227 decree for marriage dissolution.

228 (3) Upon filing of the “Joint Petition, Agreement and Judgment and  
229 Decree,” and the Confidential Information Form (Form 11.1 as published by the state  
230 court administrator), and a Notice to the Public Authority if required by Minn. Stat. §  
231 518A.44, the court administrator shall place the matter on the appropriate calendar  
232 pursuant to Minn. Stat. § 518.13, subd. 5. A Certificate of Representation and Parties and  
233 documents required by Rules 306.01 and 306.02 shall not be required if the “Joint  
234 Petition, Agreement and Judgment and Decree” published by the state court administrator  
235 is used.

236 (4) The state court administrator shall develop ~~maintain, publish and~~  
237 ~~regularly update, or provide references to,~~ forms that may be used by parties for purposes  
238 ~~of this rule~~ to file joint petitions to commence marriage dissolution proceedings. ~~Court~~  
239 ~~Administrators in each Judicial District shall make the forms available to the public at a~~  
240 ~~reasonable cost.~~

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

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247 **Advisory Committee Comment--2012 Amendments**

248 Family court proceedings are generally governed by statute in Minnesota,  
249 and these rules implement the statutory procedures. Proceedings for dissolution,  
250 legal separation and annulment are governed in detail by Minnesota Statutes,  
251 chapter 518. *See generally* Minn. Stat. § 518.10 (requirements for petition); §  
252 518.11 (service by publication and precluding substitute service or service by  
253 mail under Minn. R. Civ. P. 4.05); § 518.12 (requiring respondent’s answer to  
254 be served within 30 days). Service “by alternate means” is authorized by statute.  
255 *See* Minn. Stat. § 518.11 (authorizing service by various other means). The rule  
256 retains provision for service by publication because publication is authorized for  
257 a summons and petition that may affect title to real property. *See* Minn. Stat. §  
258 518.11(c) (2010).

259 A joint proceeding is commenced on the date when both parties have signed  
260 the petition, and no summons is required. Minn. Stat. §§ 518.09 & 518.11.  
261 Rule 308.04 creates a procedure similar to that in Rule 302.01(c)(2) & (3). The  
262 Rule 302 procedure is available only in limited circumstances to allow for a  
263 completely streamlined procedure—use of a joint petition, agreement and  
264 judgment and decree of marriage dissolution without children or with children  
265 where the parties have agreed on all issues. The Rule 308 procedure is a more  
266 limited streamlined procedure, although it is available in any case, but it does  
267 not obviate service of a petition (or use of a separate joint petition). That  
268 procedure simply allows the parties to combine the marital termination  
269 agreement and judgment and decree into a single document. The decision to use  
270 the procedure established in Rule 308.04 may be made at any time, while the  
271 procedure in Rule 302.01(c) is, by its nature, limited to a decision prior to  
272 commencement of the proceedings.

273 Custody proceedings under the Uniform Child Custody Jurisdiction and  
274 Enforcement Act are governed by Minnesota Statutes, chapter 518D. Interstate  
275 service and notice must be accomplished at least 20 days prior to any hearing in  
276 Minnesota. Service within the state is governed by Minn. R. Civ. P. 4.

277 Domestic abuse order for protection proceedings are governed by Minnesota  
278 Statutes, chapter 518B. Notice and the timing of personal service on the  
279 respondent varies according to the circumstances detailed in the statute. Support  
280 proceedings under the revised Uniform Interstate Family Support Act are  
281 governed by Minnesota Statutes, chapter 518C. The time for answer is  
282 governed by the law of the responding jurisdiction.

283 Statutes authorize commencement of certain Family Court Actions other  
284 than by summons and petition. Commencement of contempt proceedings under  
285 Minn. Stat. § 588.04 is addressed in Rule 309 of these rules. Court decisions set  
286 forth in *Rodewald v. Taylor*, 797 N.W.2d 729 (Minn. Ct. App. 2011), also  
287 permit commencement by motion following the signing of a Recognition of  
288 Parentage under Minn. Stat. § 257.75.

289 Actions to establish parentage are governed by Minnesota Statutes, chapter  
290 257. Rule 314 of these rules addresses specific procedures applicable in these  
291 actions.

292 A child support proceeding that is not a IV-D case as defined in Rule  
293 352.01(g)) must be commenced in district court and is subject to Rules 301-314.  
294 Actions for reimbursement for public assistance are governed by Minn. Stat. §  
295 256.87 and are governed by the expedited process rules, Rules 351, et seq. The  
296 Petitioner must notify the public agency responsible for support enforcement of  
297 all proceedings if either party is receiving or has applied for public assistance.  
298 Minn. Stat. § 518A.44.

299 A party appearing pro se is required to perform the acts required by rule or  
300 statute in the same manner as an attorney representing a party. An attorney  
301 dealing with a party appearing pro se shall proceed in the same manner,  
302 including service of process, as in dealing with an attorney.

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**Rule 302.02** ~~Continuances~~

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~~Minn. Gen. R. Prac. 122 shall be followed in connection with continuances for pre-hearings and trial settings. No continuance of a motion shall be granted unless requested within 3 days of receiving notice under Rule 303.01(a) and unless good cause is shown~~

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**Rule 302.03** ~~Time~~

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~~Time is governed by Minnesota Rules of Civil Procedure, except where a different time is specified by statute. Procedural time limits may be shortened for good cause shown.~~

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**Rule 302.04** ~~Designation of Parties~~

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**(a) Petitioner and Respondent.** Parties to ~~dissolution, legal separation, annulment, custody, domestic abuse, U.C.C.J.A., and R.U.R.E.S.A. proceedings~~ Family Court Actions shall be designated as petitioner (joint petitioners or petitioner and co-petitioner) and respondent. ~~Parties to parentage and Minnesota Statutes, section 256.87 reimbursement actions shall be designated as plaintiff and defendant.~~ After so designating the parties, it is permissible to refer to them as husband and wife, father and mother, or other designations if applicable by inserting the following in any petition, order, decree, etc.:

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Petitioner is hereinafter referred to as (~~wife/husband~~ familial designation), and respondent as (~~husband/wife~~ familial designation).



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**RULE 303. MOTIONS; ~~EX PARTE~~ EMERGENCY RELIEF; ORDERS TO  
SHOW CAUSE; ~~ORDERS AND DECREES~~**

370 **Rule 303.01 Scheduling of Motions**

371 ~~(a) Notice.~~ **Notice of Obtaining Hearing Date.**

372 ~~(1) All motions shall be accompanied by either an order to show cause or by a~~  
373 ~~notice of motion which shall state, with particularity, the time and place of the hearing~~  
374 ~~and the name of the judge, referee, or judicial officer, as assigned by the local assignment~~  
375 ~~clerk.~~

376 ~~(2)~~ Except in cases in which the parties reside in the same residence and there is a  
377 possibility of abuse, a party who obtains a date and time for hearing a motion shall  
378 promptly give written notice of the hearing date and time, ~~and the name of the judicial~~  
379 ~~officer, as assigned by the local assignment clerk, if known, and the primary issue(s) to~~  
380 be addressed at the hearing to all parties in the action. If the parties reside in the same  
381 residence and there is a possibility of abuse, notice shall be given in accordance with the  
382 Minnesota Rules of Civil Procedure.

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

388           ~~(2) Except in cases in which the parties reside in the same residence and there is a~~  
389 ~~possibility of abuse, a party who obtains a date and time for hearing a motion shall~~  
390 ~~promptly give notice of the hearing date and time and the name of the judge or referee, if~~  
391 ~~known, to all other parties in the action. If the parties reside in the same residence and~~  
392 ~~there is a possibility of abuse, notice shall be given in accordance with the Minnesota~~  
393 ~~Rules of Civil Procedure.~~

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

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

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403                   **Advisory Committee Comment—2012 Amendments**

404           Rule 303.01 imposes a simple burden on any party, whether or not  
405 represented by counsel: to promptly advise the other parties when a hearing date  
406 is obtained from the court. The rule codifies common courtesy, but also serves  
407 specific purposes of reducing the need to reschedule motion hearings and  
408 permitting the other side to submit motions at the same hearing, if appropriate.  
409 “Promptly” is intentionally not rigidly defined, but notice should be sent the  
410 same day the hearing date is obtained. Notice of the assignment of a judicial  
411 officer also starts the time to remove an assigned judicial officer under Minn. R.  
412 Civ. P. 63.03 and Minn. Stat. § 542.16.

413           The Rule exempts a party from giving prior notice if there is a “possibility of  
414 abuse” and where the two parties share the same residence. This admittedly  
415 subjective standard is retained in the rule for the protection of victims of  
416 domestic violence. The trial court retains the authority to impose sanctions for  
417 the improper use of this exception.  
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**Rule 303.02 Form of Motion**

421           **(a) Specificity and Supporting Documents.** Motions shall set out with  
422 particularity the relief requested in individually numbered paragraphs. All motions must  
423 be supported by ~~appropriate~~ signed, sworn and notarized affidavits that contain facts  
424 ~~relevant and material to the issues before the court. The paragraphs of the affidavits~~  
425 ~~should be specific and factual; where possible, they should be numbered to correspond to~~  
426 ~~the paragraphs of the motion.~~

427           **(b) Application for Temporary Relief.** When temporary financial relief is  
428 ~~initially requested, such as child support, maintenance, payment of debt and attorney's~~  
429 ~~fees the application for temporary relief is requested, the Parenting/Financial Disclosure~~  
430 Statement form developed by the state court administrator shall be served and filed by the  
431 moving and responding parties. ~~Additional facts, limited to relevant and material~~  
432 ~~matters, shall be added to the application form or by supplemental affidavit, along with~~  
433 their motions and affidavits. Sanctions for failure to comply include, but are not limited  
434 to, the striking of pleadings or hearing.

435 **Rule 303.03 Motion Practice**

436           **(a) Requirements for Motions.**

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

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

443 ~~(ii) Motion;~~

444 ~~(iii) Any relevant~~ Relevant signed, sworn and notarized affidavits  
445 and exhibits; and

446 ~~(iviii)~~ Any memorandum of law the party intends to submit.

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

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

453 ~~(ii) Motion;~~

454 ~~(iii) Any relevant~~ Relevant signed, sworn and notarized, affidavits  
455 and exhibits; and

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

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

463 (i) Any memorandum of law the party intends to submit; and  
464 (ii) ~~Any relevant~~ Relevant signed, sworn and notarized affidavits  
465 and exhibits.

466 (4) *Computation of Time for Service and Filing By Mail.* Whenever this  
467 rule requires documents to be served and filed with the court administrator within a  
468 prescribed period of time before a specific event, service and filing may must be  
469 accomplished as required by mail, ~~subject to the following: (i) 3 days shall be added to~~  
470 ~~the prescribed period; and (ii) filing shall not be considered timely unless the documents~~  
471 ~~are deposited in the mail within the prescribed period. Service of documents on parties~~  
472 ~~by mail is subject to the provisions of Minn. R. Civ. R. P. 5:02 and 6.05.~~

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

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

482 (c) **Settlement Efforts.** ~~No motion, except a motion for temporary relief, will be~~  
483 ~~heard unless the parties have conferred~~ Except in parentage cases when there has been no  
484 court determination of the existence of the parent and child relationship, and except in

485 situations where a court has ordered that no contact occur between the parties, the  
486 moving party shall, within 7 days of filing a motion, initiate a settlement conference  
487 either in person, or by telephone, or in writing in an attempt to resolve their differences  
488 prior to the hearing. The moving party shall initiate such conference. In matters  
489 involving post decree motions, if the parties are unable to resolve their differences in this  
490 conference they shall consider the use the issues raised. Unless ADR is not required  
491 under Rule 310, this conference shall include consideration of an appropriate ADR  
492 process under Rule 114 to attempt to accomplish resolution. The moving party shall  
493 certify to the court, before the time of the hearing, compliance with this rule or any  
494 reasons for not complying, including lack of availability or cooperation of opposing  
495 counsel. The moving party shall file a Certificate of Settlement Efforts in the form  
496 developed by the state court administrator not later than 24 hours before the hearing.  
497 Unless excused by the Court for good cause, no motion shall be heard unless the parties  
498 have complied with this rule. Whenever any pending motion is settled, the moving party  
499 shall promptly advise the court.

500 **(d) ~~Motion with Request for Oral Testimony.~~**

501 (1) General Rule. Motions, except for contempt proceedings, shall be  
502 submitted on affidavits, exhibits, documents subpoenaed to the hearing, memoranda, and  
503 arguments of counsel unless otherwise ordered by the court for good cause shown. If  
504 demand is made except for contempt proceedings or as otherwise provided for in these  
505 rules.

506                   (2) Request for Leave for Oral Testimony. Requests for the taking of oral  
507 testimony must be made by motion served and filed not later than the filing of that party's  
508 initial motion papers. ~~and if the matter cannot be heard adequately in the scheduled~~  
509 ~~time, the hearing shall be utilized as a prehearing conference. Requests for hearing time~~  
510 ~~in excess of one half hour shall be submitted by written motion specifically setting forth~~  
511 ~~the necessity and reason that evidence cannot be submitted by affidavit. The motion shall~~  
512 include names of witnesses, nature and length of testimony, including cross-examination,  
513 and types of exhibits, if any. ~~The court may issue an order limiting the number of~~  
514 ~~witnesses each party may call, the scope of their testimony, and the total time for each~~  
515 ~~party to present evidence. Such an order shall be made only after the lawyer for each~~  
516 ~~party has had an opportunity to suggest appropriate limits.~~

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

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

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

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

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

535

536                   **Advisory Committee Comment—2012 Amendments**

537                   Motion practice in family law matters is intended to mirror, where  
538 appropriate to the needs of family law issues, the procedures followed generally  
539 in civil cases in Minnesota courts. The prevailing practice in Minnesota courts  
540 is for the submission of evidence relating to motions by written submissions,  
541 with sworn testimony provided by affidavit, deposition, or other written  
542 submissions. Rule 303.03(d)(1) restates that rule. The balance of Rule  
543 303.03(d) addresses the process to request leave to present oral testimony in the  
544 limited circumstances where it may be appropriate. Minn. Stat. § 518.131, subd.  
545 8, provides for allowing oral testimony upon demand of a party in requests for a  
546 temporary order or restraining order.

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

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

563                   The rule explicitly addresses the requirement for paying a motion filing fee.  
564 Since 2003, Minnesota law requires a fee for “filing a motion or response to a  
565 motion in civil, family, excluding child support, and guardianship cases.” *See*  
566 Minn. Stat. § 357.021, subd. 2(4).

567

568 **Rule 303.04 Ex parte and Emergency Relief**

569 **(a) Motion Governing Rules.** The court may grant ~~ex parte~~ emergency relief  
570 only if requested by a motion with supporting affidavit, properly executed if the  
571 requirements in this Rule 303.04 are met. If emergency relief is sought ex parte, the  
572 party seeking the relief must demonstrate compliance with Rule 3 of these rules.

573 **(b) Order to Show Cause.** An order to show cause shall not be used ~~to grant~~  
574 ~~ex parte relief~~ except in those cases where permitted pursuant to Minn. Gen. R. Prac.  
575 303.05.

576 **(c) Filing.** ~~All such orders and supporting documents must be filed with the~~  
577 ~~order appropriately signed out for personal service. A conformed file copy of such order~~  
578 ~~shall be retained by the court administrator in the file.~~

579 ~~—————~~ **(d) Interim Support Order.** ~~To insure support for an unemployed party or a~~  
580 ~~party with children pending a full temporary hearing, an initial order to show cause may,~~  
581 ~~if the situation warrants, contain the following:~~

582 ~~————— IT IS FURTHER ORDERED that pending the aforesaid~~  
583 ~~scheduled hearing, you, shall pay to the (petitioner) (respondent)~~  
584 ~~commencing forthwith \_\_\_\_\_ percent of your net earnings after the usual~~  
585 ~~deductions for FICA, withholding taxes and group insurance, such~~  
586 ~~payments to be made within 24 hours of your receipt of such earnings for~~  
587 ~~each pay period. These payments are to insure that provision is made by~~  
588 ~~you for the support of your (wife) (husband) (and) (children) pending the~~  
589 ~~aforesaid hearing.~~

590  
591 **(c) Requirement of Motion; Form.** The party seeking emergency relief must  
592 state with specificity in a motion and affidavit:

593 ~~The percentage to be used will be in accordance with the statutory child support~~  
594 ~~guidelines and such other factors related to maintenance as the court deems appropriate.~~

595 (i) Why emergency relief is required;

596 (ii) The relief requested;

597 (iii) Disclosure of any other attempts to obtain the same or similar relief  
598 and the result;

599 (iv) If there was a prior attempt to obtain emergency relief, the name of the  
600 judicial officer to whom the request was made;

601 (v) If a prior request was denied for the same or similar relief, explain what  
602 new facts are presented to support the current motion.

603 **(d) Proposed Order.** The party seeking emergency relief must present a  
604 proposed order for the court's consideration.

605 **(e) Notice.** The party seeking emergency relief must serve the motion and  
606 affidavit, including notice of the time when and the place where the motion will be heard,  
607 on the other party or counsel, unless:

608 (i) the party seeking emergency relief provides a written statement that the  
609 party has made a good faith effort to contact the other party or counsel and has  
610 been unsuccessful; or

611 (ii) the supporting documents show good cause why notice to the other  
612 party should not be required and the court waives the notice requirement.

613 **(f) Hearing.** An order granting emergency relief without notice shall include a  
614 return hearing date before the judicial officer hearing the matter. If the relief obtained

615 affects custody or parenting time, the court shall set the matter for hearing within 14 days  
616 of the date the emergency relief is granted.

617 ~~There must be a showing in the Application for Temporary Relief or separate~~  
618 ~~affidavit of the necessity for the interim order for support.~~

619

620 **Advisory Committee Comment—2012 Amendments**

621 Rule 303.04 is amended to make clearer the circumstances that justify  
622 seeking either emergency or ex parte relief. “Emergency” and “ex parte” are  
623 not synonymous, though sometimes both might be justified in a particular  
624 situation. Emergency relief may be appropriate where there is urgency, not  
625 caused by lack of diligence on the part of the moving party, that makes the  
626 normal deadlines in the rules unworkable. Even where exigent circumstances  
627 justify shortening the deadlines, they do not generally excuse the giving of  
628 notice—or the attempt thereof—to the other side. Rare situations may, however,  
629 permit or even demand that notice not be given to the other side before seeking  
630 relief from the court. Where destruction of property or evidence is threatened,  
631 assets appear to be concealed or are threatened to be concealed, or the abduction  
632 of children has occurred or is threatened, or other situations exist where the  
633 giving of notice is likely to make any relief impossible to obtain, the court may  
634 consider the matter ex parte (without notice to the other side). Rule 3 of these  
635 rules provides clear guidelines on seeking ex parte relief. The standards of Rule  
636 65.01 of the Minnesota Rules of Civil Procedure also provide guidance for relief  
637 in family law matters. *See* Minn. R. Civ. P. 65.01 (permitting relief without  
638 notice if “immediate and irreparable injury, loss, or damage will result.”).

639 As is true for temporary restraining orders, any order granted without notice  
640 to all parties should be of extremely short duration and the court should hold a  
641 hearing upon notice to all parties before continuing or extending the relief. The  
642 availability of temporary relief, and the limits on that relief, are set forth in  
643 Minn. Stat. § 518.131.

644

645 **Rule 303.05 Orders to Show Cause**

646 Orders to show cause shall be obtained in the same manner specified for ex parte  
647 relief in Rule 3 of these rules. Such orders may require production of limited financial  
648 information ~~deemed necessary by the court~~. An order to show cause shall be issued only  
649 where the motion seeks a finding of contempt under Rule 309 or the supporting affidavit  
650 makes an affirmative showing of:

651 (a) a need to require the party to appear in person at the hearing, or

- 652 (b) ~~the~~ a need for interim support is warranted, or
- 653 (c) the production of limited financial information is deemed necessary by the
- 654 court, or
- 655 (d) a need for the issuance of an order to show cause, subject to the discretion
- 656 of the judge. such other limited relief and appropriate restraining orders, as addressed
- 657 individually in the separate supportive affidavit for ex parte relief.

658 All orders to show cause must be appropriately signed out for service. A

659 conformed file copy of such order shall be retained by the court administrator in the file.

660

661 **Advisory Committee Comment—2012 Amendments**

662 Orders to show cause should be issued only when it is necessary that a party

663 appear at a hearing. In most situations, the provision of notice of a hearing, and

664 allowing parties to appear if they choose to contest entry of the relief sought, is

665 sufficient. Orders to show cause are specifically authorized, in limited

666 circumstances, by statute. *See, e.g.,* Minn. Stat. §§ 256.87, subd. 1a; 393.07,

667 subd. 9; 518A.73; and 543.20. It is often preferable to use a notice of motion,

668 and if attendance is required, to issue a subpoena to a non-party. *See, e.g.,*

669 *Stevens County Social Service Dept. ex rel. Banken v. Banken*, 403 N.W.2d 693

670 (Minn. Ct. App. 1987). Orders to show cause are a recognized part of contempt

671 proceedings. *See, e.g.,* Minn. Stat. § 588.04.

672 Parties should be aware that improper use of an order to show cause can

673 result in the imposition of sanctions. *See, e.g., Nelson v. Quade*, 413 N.W.2d

674 824 (Minn. Ct. App. 1987).

675 Former Rule 303.06 setting forth notices to be included in a final decree

676 have largely been obviated by statutorily required notices. Notices required

677 under statute are discussed in Rule 308.02 and its accompanying advisory

678 committee comment.

679

680 **~~Rule 303.06 Orders and Decrees Requiring Child Support or Maintenance~~**

681 ~~———— All orders and judgments and decrees which include awards of child support~~

682 ~~and/or maintenance, unless otherwise directed by the court, shall include the following~~

683 ~~provisions:~~

684 ~~———— That both parties are hereby notified that:~~

685 ~~———— (a) Payment of support or maintenance, or both, is to be as ordered herein, and~~  
686 ~~the giving of gifts or making purchases of food, clothing and the like will not fulfill the~~  
687 ~~obligation.~~

688 ~~———— (b) Payment of support must be made as it becomes due, and failure to secure,~~  
689 ~~or denial of rights of, visitation is not an excuse for nonpayment, but the aggrieved party~~  
690 ~~must seek relief through proper motion filed with the court.~~

691 ~~———— (c) The payment of support or maintenance, or both, takes priority over payment~~  
692 ~~of debts and other obligations.~~

693 ~~———— (d) A party who remarries after dissolution and accepts additional obligations of~~  
694 ~~support does so with full knowledge of his or her prior obligations under this proceeding.~~

695 ~~———— (e) Child support and maintenance are based on annual income, and it is the~~  
696 ~~responsibility of a person with seasonal employment to budget income so that payments~~  
697 ~~are made regularly throughout the year as ordered.~~

698

699 **RULE 304. SCHEDULING OF CASES**

700 **Rule 304.01 Scope**

701 ~~The purpose of this rule is to provide a uniform system~~ Rules 304.01 through  
702 304.05 provide for scheduling matters for disposition and trial in all proceedings in f  
703 Family eCourt Actions, excluding only the following:

704 (a) Actions for reimbursement of public assistance (Minn. Stat. § 256.87);

705 (b) Contempt (Minn. Stat. ch. 588);

706 (c) Domestic abuse proceedings (Minn. Stat. ch. 518B);

- 707 (d) Child custody enforcement proceedings (Minn. Stat. ch. 518AD);
- 708 (e) Support enforcement proceedings (Minn. Stat. ch. 518C--R.U.R.I.E.F.S.A.);
- 709 (f) Withholding of refunds from support debtors (Minn. Stat. § 289A.50, subd. 5);
- 710 (g) Proceedings to compel payment of child support (Minn. Stat. § 393.07, subd.
- 711 9); ~~and~~
- 712 (h) Proceedings for support, maintenance or county reimbursement judgments
- 713 (Minn. Stat. § 548.091); and
- 714 (i) Expedited Child Support Proceedings (Minn. Gen. R. Prac. 351 through 379).
- 715 Rule 304.06 applies to all Family Court Actions.

716 **Rule 304.02 ~~The Party's Informational Statement~~ Initial Case Management**

717 **Statement**

718 ~~(a) — **Timing.** Within 60 days after filing an action or, if a temporary hearing~~

719 ~~is scheduled within 60 days of the filing of the action, then within 60 days after a~~

720 ~~temporary hearing is initially scheduled to occur, whichever is later, each party shall~~

721 ~~submit, on a form to be available from the court and developed by the state court~~

722 ~~administrator, the information needed by the court to manage and schedule the case.~~

723 ~~(b) **Content.** The information provided shall include:~~

724 ~~(1) Whether minor children are involved, and if so:~~

725 ~~(i) Whether custody is in dispute; and~~

726 ~~(ii) Whether the case involves any issues seriously affecting~~

727 ~~the welfare of the children;~~

728                   (2) ~~Whether the case involves complex evaluation issues, and/or~~  
729                   ~~marital and nonmarital property issues;~~

730                   (3) ~~Whether the case needs to be expedited, and if so, the specific~~  
731                   ~~supporting facts;~~

732                   (4) ~~Whether the case is complex, and if so, the specific supporting~~  
733                   ~~facts;~~

734                   (5) ~~Specific facts about the case which will affect readiness for trial;~~

735                   (6) ~~Recommended alternative dispute resolution process, the timing of~~  
736                   ~~the process, the identity of the neutral selected by the parties or, if the neutral has~~  
737                   ~~not yet been selected, the deadline for selection of the neutral. If ADR is believed~~  
738                   ~~to be inappropriate, a description of the reasons supporting this conclusion;~~

739                   (7) ~~Identification of interpreter services (specifying language and, if~~  
740                   ~~known, particular dialect) any party anticipates will be required for any witness or~~  
741                   ~~party; and~~

742                   (8) ~~A proposal for establishing any of the deadlines or dates to be~~  
743                   ~~included in a scheduling order pursuant to this rule.~~

744                   ~~(e) **Unrepresented Parties.** Parties not represented by a lawyer may use forms~~  
745                   ~~developed specially by the state court administrator for unrepresented parties.~~

746                   Within 60 days after the initial filing in a case, or sooner if the court requires, the  
747                   parties shall file an Initial Case Management Statement that substantially conforms to the  
748                   form developed by the state court administrator.

750 Rule 304.02 is amended to reflect the more varied approaches to case  
751 management being used in Minnesota courts. The Initial Case Management  
752 Statement replaces the former Party's Information Statement form and is  
753 intended to be a more flexible device for obtaining information to be used by the  
754 court in making case-management decisions. Supplemental information  
755 regarding local programs such as Early Case Management and/or Early Neutral  
756 Evaluation addressing may require submission of separate information on a  
757 separate time deadline.  
758

### 759 **Rule 304.03 Scheduling Order**

760 (a) **When Issued.** Within thirty days after the expiration of the time set forth in  
761 ~~Minn. Gen. R. Prae.~~ Rule 304.02 for filing ~~informational statements~~ an Initial Case  
762 Management Statement, the court shall enter its scheduling order. The court may issue  
763 the order after either a telephone or in court conference, or without a conference or  
764 hearing if none is needed.

765 (b) **Contents of Order.** The scheduling order shall provide for alternative  
766 dispute resolution as required by Rule 114.04(c) and may establish any of the following:

767 (1) Deadlines or specific dates for the completion of ~~discovery and other~~  
768 ~~pretrial preparation~~ alternative dispute resolution including but not limited to  
769 mediation and early neutral evaluations;

770 (2) Deadlines or specific dates for ~~serving, filing or hearing motions~~ the  
771 completion of discovery and other pretrial preparation;

772 (3) Deadlines or specific dates for serving, filing or hearing motions;

773 (4) A deadline or specific date for ~~the prehearing conference; and~~ custody,  
774 parenting time or property evaluations;

775 (5) A deadline or specific date for the ~~prehearing~~ pretrial conference; and

776 (6) A deadline or specific date for the trial or final hearing.

777 **Rule 304.04 Amendment**

778 A scheduling order pursuant to this rule may be amended at a ~~prehearing~~ any  
779 pretrial or settlement conference, ~~or upon motion for good cause shown, or upon approval~~  
780 ~~by authorized court personnel if there is agreement of all parties.~~ , or upon stipulation of  
781 the parties if approved by the court.

782 **Rule 304.05. Collaborative Law**

783 A scheduling order under this rule may include provision for deferral on the  
784 calendar pursuant to Rule 111.05(b) of these rules and for exemption from additional  
785 ADR requirements pursuant to Rule 111.05(c).

786 **Rule 304.06 Continuances**

787 (a) Trial. Minn. Gen. R. Prac. 122 governs continuances for trial settings unless  
788 the court directs otherwise.

789 (b) Motions and Pretrial. A request for a continuance of a motion or pretrial  
790 conference shall be in writing and set forth the basis for the request.

791

792

**RULE 305. ~~PREHEARING~~ PRETRIAL CONFERENCES**

793 **Rule 305.01 ~~Prehearing~~ Parenting/Financial Disclosure Statement**

794 Each party shall complete a ~~prehearing conference~~ Parenting/Financial Disclosure  
795 ~~statement substantially~~ in the form developed by the state court administrator which shall  
796 be served upon all parties and ~~mailed to or~~ filed with the court at least ~~10~~7 days prior to  
797 the date of the ~~prehearing~~ pretrial conference.

798 **Rule 305.02 ~~Prehearing~~ Pretrial Conference Attendance**

799 (a) **Parties and Counsel.** Unless excused by the court for good cause, the  
800 parties and lawyers who will try the proceedings shall attend the ~~prehearing~~ pretrial  
801 conference, prepared to negotiate a final settlement. The lawyers attending the pretrial  
802 conference must have authority to settle the case. If a stipulation is reduced to writing  
803 prior to the ~~prehearing~~ pretrial conference, the case may be heard administratively or as a  
804 default at the time scheduled for the conference. In ~~that~~ the event, the matter will proceed  
805 as a default, then only the party obtaining the decree need appear.

806 (b) **Failure to Appear—Sanctions.** If a party fails to appear at a ~~prehearing~~  
807 pretrial conference, the court may dispose of the proceedings without further notice to  
808 that party.

809 (c) **Failure to Comply—Sanctions.** Failure to comply with the rules relating  
810 to ~~prehearing~~ pretrial conferences may result in the case being stricken from the contested  
811 calendar, granting of partial relief to the appearing party, striking of the nonappearing  
812 party's pleadings and the hearing of the matter as a default, award of attorney fees and  
813 costs, and such other relief as the court finds appropriate, without further notice to the  
814 defaulting party.

815 **Rule 305.03 ~~Prehearing~~ Conference Order for Trial or Continued Pretrial**  
816 **Conference**

817 If the parties are unable to resolve the case, in whole or in part, at the ~~prehearing~~  
818 pretrial conference, the court shall issue an order ~~which~~ that schedules any remaining  
819 discovery and any contemplated motions, identifies the contested issues for trial, and

820 provides for the exchange of witness lists and exhibits to be offered at trial. The order  
821 shall identify and describe the resolution of uncontested issues that have been placed on  
822 the record.

## 823 **RULE 306. DEFAULT**

### 824 **Rule 306.01 Scheduling of Final Hearing**

825 Except when proceeding under Rule 302.01(b) by Joint Petition, Agreement and  
826 Judgment and Decree, to place a marriage dissolution matter on the default calendar for  
827 final hearing or for approval without hearing pursuant to Minnesota Statutes, section  
828 518.13, subdivision 5, the moving party shall submit a ~~default scheduling request~~  
829 ~~substantially in the~~ Default Scheduling Request form developed by the state court  
830 administrator and shall comply with the following, as applicable:

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

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

840 You are hereby notified that an application has been made for a final  
841 hearing to be held on \_\_\_\_\_, 20\_\_, at \_\_: \_\_ .m. at  
842 \_\_\_\_\_ [a date not sooner than ~~fourteen (14)~~ days from the

843 date of this notice]. You are further notified that the court will be requested  
844 to grant the relief requested in the petition at the hearing. You should  
845 contact the undersigned and the District Court Administrator immediately if  
846 you have any defense to assert to this default judgment and decree.

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

849 If the case is to proceed administratively without a hearing under Minn. Stat. §  
850 518.13, subdivision 5, then the notice shall be sent after the expiration of the 30-day  
851 answer period, but at least ~~fourteen~~ (14) days before submission of a default scheduling  
852 request as required by this rule, and shall state:

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

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

863 In a stipulation where a party appears pro se, the following waiver shall be  
864 executed by that party:

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

868 **Advisory Committee Comment—2012 Amendments**

869 Rule 306 attempts to make clear the role of notice required to be given to  
870 parties who are in default but who have “appeared” in some way in marriage  
871 dissolution proceedings. A party is not entitled to prevent entry of judgment if  
872 that party is in default by not serving and filing a timely written answer to the

873                   Petition. Nonetheless, the court may, in its discretion, consider some  
874 appropriate measures to prevent the case from being decided on a default basis  
875 and to obviate a motion for relief from the default judgment and decree.  
876 Accordingly, the rule is amended to afford more useful notice as to the request  
877 for a default. Defaults in other types of family proceedings are governed by  
878 Rule 55 of the Minnesota Rules of Civil Procedure.

879                   The rule does not define how a party might appear either by “a pleading  
880 other than an answer,” or “personally without a pleading.” Both conditions  
881 should be limited to actions that approach responding to the Petition despite the  
882 fact they may be insufficient as a matter of law to stand as a response. Sending  
883 a letter that responds to a Petition might suffice for the first condition, as might a  
884 letter to the court. Appearing at a court hearing despite having not answered  
885 would certainly meet the “appeared personally” condition. When in doubt as to  
886 other circumstances, the party seeking a default should, to comply with Rule  
887 306.01(b), provide the required notice, with the expectation that many of these  
888 responses that fall short of an answer will not prevent entry of judgment.

889

## 890 **Rule 306.02 Preparation of Decree [Abrogated]**

891                   ~~Except in a proceeding under Rule 302.01(b) commenced by Joint Petition,~~  
892 ~~Agreement and Judgment and Decree, or in a scheduled default matter, proposed findings~~  
893 ~~of fact, conclusions of law, order for judgment and judgment and decree shall be~~  
894 ~~submitted to the court in advance of, or at, the final hearing.~~

895

### 896                   **Advisory Committee Comment—2012 Amendments**

897                   Rule 306.02 is abrogated because it sets forth procedures that do not need to  
898 be established by rule and in practice individual judges deal with the preparation  
899 of a decree in different ways. The court may still require the submission of  
900 proposed findings of fact, conclusions of law, order for judgment, and judgment  
901 and decree in advance of the hearing.

902

## 903 **RULE 307. FINAL HEARINGS**

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

909           **(b) Stipulations Entered in Open Court—Preparation of Findings.** Where  
910 a stipulation has been entered orally upon the record, the lawyer directed to prepare the  
911 decree shall submit it to the court with a copy to each party. Unless a written, fully  
912 executed stipulation is filed or unless the decree contains the written approval of the  
913 ~~lawyer for each party or the~~ other party or their legal representative, a transcript of the  
914 oral stipulation shall be filed by the lawyer directed to prepare the decree. Responsibility  
915 for the cost of the transcript shall be determined by the court. Entry of the decree shall be  
916 deferred for fourteen (14) days to allow for objections unless the decree contains the  
917 written approval of the lawyer for each party, or the other party if not represented.

918                           **RULE 308. FINAL ORDER, JUDGMENT OR DECREE**

919           **Rule 308.01 Notices; Service**

920           **(a) Awards of Child Support and/or Maintenance.** All orders, judgments, and  
921 ~~decrees which~~ that include awards of child support ~~and/~~ or maintenance, unless otherwise  
922 directed by the court, shall include the provisions set forth in Minnesota ~~Gen. R. Prac.~~  
923 ~~303.06.~~ Statutes section 518.68 (Appendix A).

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

930           **(c) Child Support Enforcement.** When a private party has applied for or is  
931 using the services of the local child support enforcement agency, a copy of the decree  
932 shall be served by mail by the party submitting the decree for execution upon the county  
933 agency involved.

934           **(d) Supervised ~~Custody~~ Parenting Time or Visitation.** A copy of any  
935 judgment and decree or other order directing ongoing supervision of ~~e custody~~ parenting  
936 time or visitation shall be provided to the appropriate agency by the party obtaining the  
937 decree or other order.

938           **Rule 308.02 Statutorily Required Notices**

939           Where statutes require that certain subjects be addressed by notices in an order or  
940 decree, the notices may ~~shall not be included verbatim but shall~~ be set forth in an  
941 attachment and incorporated by reference.

942           **Rule 308.03 Sensitive Matters**

943           Whenever the findings of fact include private or sensitive matters as determined  
944 by the court, ~~a party may submit~~ a judgment and decree may be supported by separate  
945 documents comprising findings of fact, conclusions of law, and order for judgment.

946           **Rule 308.04. Joint Marital Agreement and Decree**

947           The parties to any marital dissolution proceeding may use a combined agreement  
948 and judgment and decree ~~for marriage dissolution~~. A judgment and decree ~~which~~ that is  
949 subscribed to by each party before a notary public and contains a final conclusion of law  
950 with words to the effect that “the parties agree that the foregoing Findings of Fact and  
951 Conclusions of Law incorporate the complete and full ~~Marital Termination Agreement~~

952 agreement” shall, upon approval and entry by the court, constitute an agreement and  
953 judgment and decree for marriage dissolution for all purposes.

954 **Advisory Committee Comment—2012 Amendment**

955 Rule 308.02 refers to statutory notice. The legislature has established  
956 numerous forms of notice including those required by Minn. Stat. § 518.68.  
957 These requirements are met in a two-page notice form, which is known as  
958 Appendix A and labeled as FAM 301 on the state court website  
959 (www.mncourts.gov, under “Court Forms” click on “Other”).

960 Rule 308.04 allows parties in any marriage dissolution proceeding, whether  
961 commenced by petition or joint petition, to use a combined agreement and  
962 judgment and decree. The agreement is often termed a “marital termination  
963 agreement,” but that label is not required by the rule. The primary benefit of  
964 this procedure is to reduce the risk of discrepancy between the terms of a marital  
965 termination agreement and the judgment and decree it purports to authorize.  
966 This procedure should benefit both the parties and the court in streamlining the  
967 court procedure where the parties are in agreement. The rule permits the parties  
968 to use this procedure by agreement, but does not require its use.

969 The procedure in Rule 308.04 is similar to the procedure for use of a  
970 combined Joint Petition, Agreement and Judgment and Decree under Rule  
971 302.01(b)(2), and is available in all cases where the parties agree on all issues.

972 The use of this procedure will result in the marital termination agreement  
973 becoming an integral part of the judgment and decree, which will render it a  
974 public record. To the extent the parties’ agreement contains confidential  
975 information, they should consider alternative methods of protecting that  
976 information, such as use of separate documents as provided for in Rule 308.03  
977 so the agreement is not filed or the use of the confidentiality protection  
978 procedures contained in Minn. Gen. R. Prac. 11.

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## **RULE 309. CONTEMPT**

### **Rule 309.01 Initiation**

982 **(a) Moving Papers—Service; Notice.** Contempt proceedings may be initiated  
983 by notice of motion and motion or by an order to show cause served upon the person of  
984 the alleged contemnor together with motions accompanied by appropriate supporting  
985 affidavits. Pursuant to Rule 303.05 an order to show cause may be issued by the court  
986 without notice to the alleged contemnor provided the supporting affidavits credibly raise  
987 an issue of contempt.  
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989           **(b) Content of Order to Show Cause or Notice of Motion and Motion.** The  
990 order to show cause shall direct the alleged contemnor to appear and show cause why he  
991 or she should not be held in contempt of court and why the moving party should not be  
992 granted the relief requested by the motion. If proceeding by notice of motion and motion,  
993 the motion may seek that relief directly.

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

996                     (1) a reference to the specific order or judgment of the court alleged to  
997 have been violated and the date of entry or filing of the order or judgment;

998                     (2) a quotation of the specific applicable provisions ordered; ~~and~~

999                     (3) the alleged failures to comply;

1000                    (4) notice to the alleged contemnor that his or her ability to pay is a crucial  
1001 issue in the contempt proceeding and that a Parenting/Financial Disclosure  
1002 Statement form for submitting ability to pay information is available from the state  
1003 court website, and this form should be served and filed with the court at or before  
1004 the contempt hearing; and

1005                    (5) a date to appear for a Rule 309.02 hearing no later than 60 days after  
1006 the issuance of the notice of motion or order to show cause.

1007           **(bc) Affidavits.** The supportive affidavit of the moving party shall set forth each  
1008 alleged violation of the order with particularity. Where the alleged violation is a failure  
1009 to pay sums of money, the affidavit shall state the kind of payments in default and shall



1045 **Rule 309.02 Hearing**

1046 The alleged contemnor must appear in person before the court to be afforded the  
1047 opportunity to ~~resist~~ respond to the motion for contempt by sworn testimony. The court  
1048 shall not act upon affidavit alone, absent express waiver by the alleged contemnor of the  
1049 right to offer sworn testimony.

1050 **Rule 309.03 Sentencing**

1051 **(a) Default of Conditions for Stay.** Where the court has entered an order for  
1052 contempt with a stay of sentence and there has been a default in the performance of the  
1053 condition(s) for the stay, before a writ of attachment or a bench warrant will be issued, an  
1054 affidavit of noncompliance and request for writ of attachment must be served upon the  
1055 person of the defaulting party, unless the person is shown to be avoiding service.

1056 **(b) Writ of Attachment.** The writ of attachment shall direct law enforcement  
1057 officers to bring the defaulting party before the court for a hearing to show cause why the  
1058 stay of sentence should not be revoked. A proposed order for writ of attachment shall be  
1059 submitted to the court by the moving party.

1060 **Rule 309.04 Findings**

1061 An order finding contempt must be accompanied by appropriate findings of fact.

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**Advisory Committee Comment—2012 Amendments**

Rule 309.04 requires findings. Findings are required to permit appellate review of a contempt order. In cases where incarceration is a consequence of a contempt finding, due process may require notice to the alleged contemnor of the right to show inability to pay and findings on that issue. *See Turner v. Rogers*, 564 U.S. \_\_\_, 131 S. Ct. 2507, 180 L. Ed. 2d 254 (2011).

1070 **RULE 310. ALTERNATIVE DISPUTE RESOLUTION**

1071 **Rule 310.01 Applicability**

1072 **(a) When ADR Required.** All family law matters in district court are subject to  
1073 Alternative Dispute Resolution (ADR) processes as established in Rule 114, except for:  
1074 1. actions enumerated in Minn. Stat., ch. 518B (Domestic Abuse Act),  
1075 2. contempt actions, and  
1076 3. maintenance, support, and parentage actions when the public agency  
1077 responsible for child support enforcement is a party or is providing services to a party  
1078 with respect to the action.

1079 **(b) ADR When There Is Domestic Abuse.** The court shall not require parties to  
1080 participate in any facilitative process if one of the parties claims to be the victim of  
1081 domestic abuse by the other party or if the court determines there is probable cause that  
1082 one of the parties or a child of the parties has been physically abused or threatened with  
1083 physical abuse by the other party. In circumstances when the court is satisfied that the  
1084 parties have been advised by counsel and have agreed to an ADR process established in  
1085 Rule 114 that will not ~~involve~~ require face-to-face meeting of the parties, the court may  
1086 direct that the ADR process be used.

1087 The court shall not require parties to attempt ADR if they have ~~made an~~  
1088 ~~unsuccessful effort to settle all issues~~ previously engaged in an ADR process under Rule  
1089 114 with a qualified neutral ~~before the filing of Informational Statement.~~ and reached an  
1090 impasse.

1091 **Rule 310.02 Post-Decree Matters**

1092 The court may order ADR under Rule 114 in matters involving post-decree relief.  
1093 The parties shall discuss the use of ADR as part of the settlement conference required by  
1094 Rule 303.03(c).

1095 **Rules 310.03-310.09 (Deleted effective July 1, 1997.)**

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**RULE 311. FORMS**

1098 The forms developed by the state court administrator are sufficient under these  
1099 rules. Forms are currently maintained on the state court website (www.mncourts.gov).  
1100 Court Administrators in each Judicial District shall make the forms available to the public  
1101 at a reasonable cost.

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**Advisory Committee Comment—2012 Amendments**

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Rule 311 establishes that court-established forms for family matters are deemed sufficient under the rules. These specific forms are not required to be used, but they contain what is required and are therefore appropriate for use.

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These rules direct the state court administrator to develop various forms: See Rules 303.02(b) (Parenting/Financial Disclosure Statement); 303.03(c) (Certificate of Settlement Efforts); 304.02(Initial Case Management Statement); 305.01(Parenting/Financial Disclosure Statement); and 306.01 (Default Scheduling Request). By maintaining the forms on the courts' website they can be readily updated and distributed to all potential users.

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**RULE 312. REVIEW OF REFEREE'S FINDINGS OR RECOMMENDATIONS**

1117 Review of decisions of district court referees is controlled by applicable statutes  
1118 and orders of the supreme court.

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**Advisory Committee Comment—2012 Amendments**

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Rule 312 is amended to replace the former rule, which established now-obsolete procedures for review of the findings or recommendations of a district court referee in family law matters. Family court referees are now used in limited circumstances in two districts, and the processes followed are established by statute and supreme court orders. Under Minn. Stat. § 484.65,

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1126 subd. 9, recommended orders and findings of Fourth Judicial District referees  
1127 are subject to confirmation by a district court judge, and once confirmed by the  
1128 district court judge the orders and findings may be appealed directly to the court  
1129 of appeals. Essentially the same is true in the Second Judicial District under a  
1130 series of orders establishing a pilot project that is still operating. The history of  
1131 the pilot project is set forth by the Minnesota Court of Appeals in its Special  
1132 Term Opinion in *Culver v. Culver*, 771 N.W.2d 547 (Minn. Ct. App. 2009):  
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1134 The pilot project came into existence in the Second Judicial District in  
1135 1996. *See* 1996 Minn. Laws ch. 365, § 2 (allowing Second Judicial District  
1136 to implement pilot project assigning related family matters to single judge or  
1137 referee); *In re* Second Judicial Dist. Combined Family, Civil Harassment,  
1138 Juvenile Probate Jurisdiction Pilot Project, No. CX-89-1863 (Minn. Apr. 10,  
1139 1996) (suspending, in light of pilot project, Minn. R. Gen. Pract. 312.01,  
1140 which recites procedure for district-court review upon filing of petition for  
1141 review). The suspension is still in effect. *See* 1998 Minn. Laws ch. 367, art.  
1142 11, § 26 (extending pilot-project legislation); 2000 Minn. Law ch. 452, § 1  
1143 (same); 2002 Minn. Law ch. 242 (same); *In re* Second Judicial Dist.  
1144 Combined Family, Civil Harassment, Juvenile Probate Jurisdiction Pilot  
1145 Project, No. CX-89-1863 (Minn. June 17, 1998) (extending suspension);  
1146 (Minn. May 23, 2000) (same); (Minn. June 3, 2002) (extending suspension  
1147 until further order of supreme court).  
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1149 *Id.*, n.1.  
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1151 **~~Rule 312.01 Notice of Assignment to Judge; Parties' Submissions~~**

1152 ~~Upon the filing of the notice of review of a referee's findings or recommended~~  
1153 ~~order, the court administrator shall notify each party:~~

1154 ~~(a) of the name of the judge to whom the review has been assigned;~~

1155 ~~(b) that the moving party shall have 10 days from the date of mailing the notice~~  
1156 ~~of assignment in which to file and serve a memorandum; and~~

1157 ~~(c) that the responding party(s) shall have 20 days from the date of mailing the~~  
1158 ~~notice of assignment within which to file and serve a responsive memorandum.~~

1159 ~~Failure to file and serve these submissions on a timely basis may result in~~  
1160 ~~dismissal of the review or disallowance of the submissions. No additional evidence may~~  
1161 ~~be filed and no personal appearance will be allowed except upon order of the court for~~  
1162 ~~good cause shown after notice of motion and motion.~~



1184 (c) Upon proper demand, the parties to parentage proceedings may obtain a jury  
1185 trial.

1186 **Advisory Committee Comment—2012 Amendments**

1187 Rule 314 is a new rule, included to collect in one place the special  
1188 procedures followed in parentage (paternity) cases. The rule is not the source of  
1189 the procedures set forth in the rule; these procedures are either dictated by  
1190 statute or common law. *See, e.g.,* Minn. Stat. §§ 257.57, 257.67  
1191 (commencement of parentage action and specifying that the proper designation  
1192 of parties in family court proceedings is as petitioner and respondent). Where a  
1193 proceeding is commenced jointly, both parties may be designated as co-  
1194 petitioners or as petitioner and co-petitioner. The rule permits the parties, once  
1195 properly designated in the appropriate pleadings, to be designated by less formal  
1196 terms that indicate their relationship. *See* Rule 302.02(a). Parentage  
1197 proceedings may be brought by a parent as well as a governmental entity, thus  
1198 the provision for plural petitioners in Rule 314(b); they are commonly brought  
1199 against multiple respondents.

1200 Rule 314 provides additional rules applicable to parentage proceedings. As  
1201 to a wide array of procedural matters not addressed in this rule, other rules  
1202 govern their use. Rule 301.01; *see, e.g.,* Minn. R. Civ. P. 56 (summary  
1203 judgment); Minn. R. Civ. P. 55 (default).