

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8006

**ORDER PROMULGATING AMENDMENTS TO THE
RULES OF CIVIL APPELLATE PROCEDURE**

The Supreme Court Advisory Committee on the Rules of Civil Appellate Procedure has recommended amendments to the Rules of Civil Appellate Procedure to address issues presented by the anticipated implementation of electronic filing and electronic service in the appellate courts, and to improve the efficiency and processing of appeals. By order filed November 20, 2013, the court invited comments on the proposed amendments.

In addition, the court has considered recommendations for a pilot program to test the use of electronic filing and electronic service in the appellate courts and the effectiveness of the appellate rules, as amended herein.

The court has reviewed the comments received and the proposed amendments and is fully advised in the premises.

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the Rules of Civil Appellate Procedure are prescribed and promulgated to be effective on July 1, 2014, and shall apply to all appeals pending or commenced on or after the effective date.

2. Other than as permitted by paragraph 3 of this order for a pilot program, or until the court orders otherwise, use of the appellate courts' electronic filing and service

system is not authorized or permitted for purposes of Rule 125 of the Rules of Civil Appellate Procedure, as amended.

3. The Clerk of Appellate Courts is authorized to conduct a pilot program under the Rules of Civil Appellate Procedure, as amended. The pilot program shall initially be limited to criminal appeals in which the parties are represented by the Ramsey County Attorney and by the State Appellate Public Defender. Unless the Clerk of Appellate Courts permits otherwise based on individual case circumstances, participants in the pilot program shall file and serve documents in the case on appeal by using the appellate courts' electronic file and service system. The Clerk of Appellate Courts is authorized to expand the pilot program to other appellate case participants or case types, shall report to the court within 90 days after the start of the pilot program, and shall provide recommendations to the court for continuation or expansion of electronic filing and electronic service in the appellate courts. The Clerk of Appellate Courts is authorized to temporarily waive convenience fees associated with the processing of filing fees or other payments related to appeals for cases in the pilot.

4. For purposes of criminal appeals, and until further order of the court, Minn. R. Crim. P. 28.02, subds. 5(12) and 9, govern the time for ordering the transcript and for identifying the parts of the transcript to be relied upon or deemed necessary for the appeal. Paper copies of the transcript ordered for the appeal in a criminal matter shall be transmitted to the attorney for each party, as required by Minn. R. Crim. P. 28.02, subd. 9, whether or not a written request for a paper copy of the transcript is submitted pursuant to Minn. R. Civ. App. P. 110.02, subd. 2(b), as amended by this order. In all other

respects, Minn. R. Civ. App. P. 110.02, as amended, shall apply to the transcript requirements in criminal appeals.

5. The Advisory Committee on the Rules of Criminal Procedure shall review the amendments promulgated here and consider whether amendments are needed to the rules of criminal procedure to implement electronic filing and electronic service in criminal matters filed in the appellate courts. On or before November 1, 2014, the Advisory Committee shall provide recommendations to the court for any proposed amendments to the rules of criminal procedure for purposes of electronic filing and service in appeals governed by those rules.

6. The Advisory Committee on the General Rules of Practice shall review the recommendation by the Advisory Committee on the Rules of Civil Appellate Procedure to require consecutive pagination of documents filed with the district courts, consider whether that recommendation should be implemented by amendment of the General Rules of Practice, and provide a recommendation to the court on or before July 1, 2015.

7. The Advisory Committee comments are included for convenience and do not reflect court approval of the statements made therein.

Dated: February 28, 2014

BY THE COURT

/s/_____

Lorie S. Gildea
Chief Justice

AMENDMENTS TO THE RULES OF CIVIL APPELLATE PROCEDURE

[Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]

TITLE II. APPEALS FROM JUDGMENTS AND ORDERS

* * *

Rule 107. Bond or Deposit for Costs

107.01 ~~When~~No Cost Bond Required

107.02 ~~When Bond Not Required~~Request to Trial Court to Require a Cost Bond

107.03 Cases for Which a Cost Bond May Not Be Required

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TITLE V. EXTRAORDINARY WRITS

Rule 120. Writs of Mandamus and Prohibition Directed to a Judge or Judges and Other Writs

120.01 Petition for Writ

120.02 Submission of Petition; Response to the Petition

120.03 Procedure Following Submission

120.04 Filing; Form of Documents~~Papers~~; ~~Number of Copies~~

120.05 Review in Supreme Court

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TITLE VII. GENERAL PROVISIONS

Rule 125. Filing and Service

125.01 Filing

125.02 Service and Filing of All Documents~~Papers~~ Required

125.03 Manner of Service

125.04 Proof of Service

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Rule 130. ~~The~~Addendum Required; Appendix Not Permitted~~to the Briefs~~; Supplemental Record

130.01 Record Not to be Printed; ~~Appellant to File Appendix~~ Not Permitted

~~130.02 Addendum~~~~Respondents May File Appendix~~

~~130.03 Party May File Supplemental Record; Not Taxable Cost~~

Rule 131. Filing and Service of Briefs, ~~the Appendix~~, and Addenda—the Supplemental Record

131.01 Time for Filing and Service

131.02 Application for Extension of Time

131.03 Number of Paper Copies to be Filed and Served

Rule 132. Form of Briefs, ~~Appendices~~, ~~Supplemental Records~~, Addenda, Motions, and Other Documents~~Papers~~

132.01 Form of Briefs, ~~Appendices~~, and Addenda~~Supplemental Records~~

132.02 Form of Motions and Other Documents~~Papers~~

132.03 Form of Documents Filed Electronically

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TITLE I. APPLICABILITY OF RULES

Rule 101. Scope of Rules; Definitions

* * *

101.02 Definitions

Subdivision 1. When used in these rules, the words listed below have the meanings given them.

Subd. 2. “Appellate court” means the Supreme Court pursuant to Minnesota Statutes, chapter 480, or the Court of Appeals pursuant to Minnesota Statutes, chapter 480A.

Subd. 3. “Judge” means a justice of the Supreme Court or a judge of the Court of Appeals.

Subd. 4. “Trial court” means the court or agency whose decision is sought to be reviewed.

Subd. 5. “Clerk of the appellate courts” means the clerk of the Supreme Court and the Court of Appeals.

Subd. 6. “Appellant” means the party seeking review including relators and petitioners.

Subd. 7. “Signed” with reference to a document filed or served using the appellate courts’ electronic filing and service system requires that the document bear a

facsimile of the filer's signature or a typographical signature of an attorney or declarant in the form: /s/ Pat L. Smith. Such a document shall be deemed to be "signed" by the filer for all purposes, and any similar indication that the document has been signed shall be treated as a "signature." Notarization shall be accomplished in accordance with Rule 14.04(c) of the Minnesota General Rules of Practice.

Advisory Committee Comment—2014 Amendments

Subdivision 7 of Rule 101.02 is new, implementing part of the electronic filing and service system for the appellate courts. It is substantially similar to Rule 11.01 of the Minnesota Rules of Civil Procedure, applicable in civil proceedings in the district courts. For documents filed using the appellate courts' electronic filing system, the electronically filed document is the original document. There is no requirement that a paper version be physically signed and retained, and such a paper duplicate should not be separately filed with the court, other than pursuant to a court order as referenced in Minn. R. Civ. App. P. 131.03.

This rule functions, in part, to thwart any claim that an electronically filed document is somehow not "signed" because there is no india-ink-on-parchment signed version of the document in the court file. An indication such as "[signed]" or "/s/" is sufficient both to comply with a requirement that a document be signed and to subject the filer to responsibility for that signing. See Minn. R. Civ. P. 11.01, Adv. Comm. Cmt.—2012 Amends.

TITLE II. APPEALS FROM JUDGMENTS AND ORDERS

Rule 103. Appeal—How Taken

103.01 Manner of Making Appeal

Subdivision 1. Notice of Appeal and Filings. An appeal shall be made by filing a notice of appeal with the clerk of the appellate courts and serving the notice on the adverse party or parties within the appeal period. The notice shall contain:

- (a) a statement specifying the judgment or order from which the appeal is taken; and
- (b) the names, addresses, and telephone numbers of opposing counsel, indicating the parties they represent.

The notice shall be accompanied by:

- (c) proof of service on the adverse party or parties; and

(d) proof of filing with the administrator of the trial court in which the judgment or order appealed from is entered or filed.

The appellant shall, simultaneously with the notice of appeal, file the following with the clerk of the appellate courts:

- ~~(1) two copies of the notice of appeal,~~
- ~~(2) a certified copy of the judgment or order from which the appeal is taken,~~
- ~~(3) two copies of the statement of the case required by Rule 133.03, and~~
- ~~(4) a filing fee of \$550.~~

The appellant shall at the same time also file the following a copy of the notice of appeal ~~simultaneously~~ with the trial court administrator:

- ~~(1) a copy of the notice of appeal, and~~
- ~~(2) the cost bond required by Rule 107, or written waiver of it.~~

* * *

Subd. 3. When Filing Fee Not Required. The filing fees set out in Rule 103.01, subdivision 1, shall not be required when:

* * *

(c) the appellant is a party to a proceeding pursuant to Minnesota Statutes, chapter 253B or 253D; or

* * *

(g) the appeal is taken by ~~a claimant~~ an applicant for unemployment ~~compensation~~ insurance benefits pursuant to Minnesota Statutes, chapter 268.

Advisory Committee Comment—2014 Amendments

Rule 103.01 is amended in several important ways. Together these changes will streamline the appellate process and make it easier to perfect appeals. First, the requirement for filing a certified copy of the trial court order or judgment from which the appeal is taken is modified to remove the certification requirement. The appellant must still provide a copy of the as-filed order or judgment, as the case may be, but it is no longer necessary that either be certified as authentic by the court administrator. The filing of these uncertified documents, however, does carry the implied representation of the filing party or counsel that they are indeed true and correct copies of the documents on file with the

tribunal issuing them.

The second change is the removal of the requirement that a cost bond be provided. This change is a part of the amendment of Rule 107.

Only a single copy of any statement of the case need be filed.

A copy of the notice of appeal must be filed with the trial court administrator to alert the trial court to the pendency of an appeal. For this filing, the trial court's filing rules should be followed. Because this copy of the notice of appeal is filed with the district court, it is permissible under Rule 125.01(d), as adopted at the time of these amendments, to effect service of it on other parties by any means authorized by the trial court rules. This rule permits service by the trial court e-filing system, which should be useful for documents that may be filed with the trial court using the same system. Because that service would not result in proof of service being transmitted to the appellate courts' electronic filing system, separate proof of service must be filed with the clerk of the appellate courts.

Rule 103.01, subdivision 3, is amended to conform the terminology in the rule to that of the statutes governing the listed proceedings. This change is not intended to change the procedure under the rule.

103.02 Joint Appeals; Related Appeals; Consolidated Appeals

* * *

Subd. 2. Related Appeals. After one party timely files a notice of appeal, any other party may seek review of a judgment or order in the same action by serving and filing a notice of related appeal. The notice of related appeal shall specify the judgment or order to be reviewed. The notice of related appeal shall be accompanied by:

- (a) a filing fee of \$100,
- (b) a ~~certified~~ copy of the judgment or order from which the related appeal is taken if different than the judgment or order being challenged in the original appeal, and
- (c) ~~two copies of~~ a statement of the case.

A ~~separate~~ cost bond is not required unless ordered by the court.

Advisory Committee Comment—2014 Amendments

The change to Rule 103.02, subdivision 2, is simply to remove the requirement for certified copies of the orders or judgment appealed from, and is a companion change to the amendment to Rule 103.01, subdivision 1. The amended rule continues to require providing copies of the judgments or orders; it is no longer necessary that they be certified by the trial court administrator.

Similarly, only a single copy of the statement of the case is required under this rule, and a cost bond is not normally required. These changes conform the procedure for a party filing a notice of related appeal to that for the appellant.

Rule 105. Discretionary Review

105.01 Petition for Permission to Appeal; Time

Upon the petition of a party, in the interests of justice the Court of Appeals may allow an appeal from an order not otherwise appealable pursuant to Rule 103.03 except an order made during trial, and the Supreme Court may allow an appeal from an order of the Tax Court or the Workers' Compensation Court of Appeals not otherwise appealable pursuant to Rule 116 or governing statute except an order made during trial. ~~The petition shall be served on the adverse party and filed within 30 days of the filing of the order. The trial court should be notified that the petition has been filed and provided with a copy of the petition and any response. Four copies of the petition shall be filed with the clerk of the appellate courts, but the court may direct that additional copies be provided. A filing fee of \$550 paid to the clerk of the appellate courts shall accompany the petition for permission to appeal.~~

Petitioner must, within 30 days of the filing of the order:

1. serve a copy of the petition on the adverse party;
2. file the petition with the clerk of the appellate courts, and
3. pay a filing fee of \$550 to the clerk of the appellate courts.

Petitioner shall also at the same time file a copy of the petition with the trial court administrator and file proof of that filing with the clerk of the appellate courts.

105.02 Content of Petition; Response

The petition shall be entitled as in the trial court, shall not exceed ~~ten~~ 10 typewritten pages, and shall contain:

- (a) a statement of facts necessary to an understanding of the questions of law or fact determined by the order of the trial court;
- (b) a statement of the issues; and
- (c) a statement why an immediate appeal is necessary and desirable.

A copy of the order from which the appeal is sought and any findings of fact,

conclusions of law, or memorandum of law relating to it shall be ~~attached to the petition~~ included in an addendum, which shall be prepared as prescribed in Rule 130.02.

Any adverse party may, within ~~five~~ 5 days after service of the petition, serve and file with the clerk of the appellate courts ~~four copies of~~ a response to the petition, which shall not exceed ~~ten~~ 10 pages. Any reply shall be served within ~~two~~ 3 days after service of the response and shall not exceed ~~five~~ 5 pages. All ~~papers~~ documents may be typewritten in the form prescribed in Rule 132.02. No additional memoranda may be filed without leave of the appellate court.

A copy of the response and any reply shall also be filed with the trial court administrator, and proof of that filing shall be filed with the clerk of the appellate courts.

The petition and any response shall be submitted without oral argument unless otherwise ordered.

105.03 Grant of Permission—Procedure

If permission to appeal is granted, the clerk of the appellate courts shall notify the trial court administrator ~~and the appellant shall file the bond as required by these rules, and~~ then proceed as though the appeal had been noticed by filing an appeal.

~~Two copies of a completed~~ The statement of the case shall be filed within ~~five~~ 5 days of the order granting the petition. The time fixed by these rules for ~~transmitting the record and for filing and serving~~ the briefs and appendix shall run from the date of the entry of the order granting permission to appeal.

Advisory Committee Comment—2014 Amendments

Rule 105 is amended to accommodate the changes brought about by use of electronic service and filing in the appellate courts. As part of these changes, and in anticipation of the expanding reliance on electronic records by the appellate courts, the courts have determined that multiple copies of many documents are no longer required.

Throughout these rules, the requirement for filing a statement of the case is now limited to a single copy, whether filed in electronic form or on paper. The amendment to Rule 105.03 applies this change to filings for discretionary review.

By amendment to Rule 107, cost bonds are not routinely required for appeals under these rules, and are not currently required for petitions under this rule. Rule 105.03 removes the requirement for a cost bond in the event the petition is granted.

The amended rule clarifies the duty to “provide” a copy of the petition to the trial court, requiring that it be filed with the trial court administrator. The same is required for any response or reply to the petition. Because this copy of the petition is filed with the trial court, it is permissible under Rule 125.01(d), as adopted at the time of these amendments, to effect service of it on other parties by any means authorized by the trial court rules. This rule permits service by the trial court e-filing system, which should be useful for documents that may be filed with the trial court using the same system. Because that service would not result in proof of service being transmitted to the appellate courts’ electronic filing system, separate proof of service must be filed with the clerk of the appellate courts.

Only a single copy of the petition and addendum need be filed. The time for a reply has been extended from 2, to 3, days after service of a response.

Rule 105.03 is amended to remove a provision relating to timing for transmitting the record to conform the rule to practice within the appellate courts. The date for transmitting the record is not currently calculated from the date of granting the petition, so this provision is deleted.

Rule 107. Bond or Deposit for Costs

107.01—~~When Bond Required~~ No Cost Bond Required

No cost bond is required for any appeal, unless ordered by the trial court on motion and for good cause shown.

~~—Unless the appellant is exempt by law, a bond shall be executed by, or on behalf of, the appellant. The bond shall be conditioned upon the payment of all costs and disbursements awarded against the appellant on the appeal, not exceeding the penalty of the bond which shall be \$500. In lieu of the bond, the appellant may deposit \$500 with the trial court administrator as security for the payment.~~

~~—Prior to filing the notice of appeal, the appellant may move the trial court for an order waiving the bond or setting a lesser amount or deposit. Upon the appellant's filing of the required cost bond or deposit, the respondent may move the trial court for an order requiring a supplemental bond or deposit.~~

~~—The bond or deposit may be waived by written consent of the respondent, which consent shall be filed with the trial court administrator.~~

107.02 ~~When Bond Not Required~~ Request to Trial Court to Require a Cost Bond

The trial court may, upon motion of any respondent and a showing that extraordinary circumstances warrant the requirement of a cost bond, order that a bond be provided as follows:

(a) The bond shall be issued by a surety licensed to issue such bonds in the State of Minnesota and shall be conditioned upon the payment of all costs and disbursements awarded against the appellant on the appeal, not exceeding the amount of the bond, which shall not exceed \$1,000;

(b) In lieu of a required bond, the appellant may deposit the required amount with the trial court administrator as security for payment; and

(c) The court may require the bond to be filed when the notice of appeal is filed, or within 10 days of the order requiring a bond, whichever date is later.

— No cost bond is required:

— (a) in a criminal case; or

— (b) in a case arising in juvenile court; or

— (c) in a proceeding pursuant to Minnesota Statutes, chapter 253B; or

— (d) when the appellant has been authorized to proceed without a cost bond pursuant to Rule 109; or

— (e) when the appellant is the state or a governmental subdivision of the state or an officer, employee or agency thereof; or

— (f) when the appellant is a party to a public assistance appeal pursuant to Minnesota Statutes, chapter 256; or

— (g) when the appellant is a reemployment insurance benefits claimant pursuant to Minnesota Statutes, chapter 268.

107.03 Cases For Which A Cost Bond May Not Be Required

The trial court may not require a bond in the following cases:

(a) a criminal case;

(b) a case arising in juvenile court;

(c) a proceeding pursuant to Minnesota Statutes, chapter 253B or 253D;

(d) when the appellant has been authorized to proceed in forma pauperis pursuant to Rule 109;

(e) when the appellant is the state or a governmental subdivision of the state or an officer, employee or agency thereof;

(f) when the appellant is a party to a public assistance appeal pursuant to Minnesota Statutes, chapter 256; or

(g) when the appellant is an applicant for unemployment benefits pursuant to Minnesota Statutes, chapter 268.

Advisory Committee Comment—2014 Amendments

The change in Rule 107.01 removes the requirement of a cost bond for most appeals. The respondent may still ask the district court to require a cost bond, but must make a motion supported by a showing of good cause for the requirement of a bond. This amendment does not change the process for taxation of costs and disbursements, but the appellant is not normally required to incur the expense of obtaining and posting a bond (formerly set at \$500). The rule requires that a respondent seeking to require a cost bond proceed by motion in the trial court and demonstrate good cause.

Rule 107.02 sets forth the requirements for a party seeking to obtain an order requiring the appellant to post a cost bond, drawn primarily from the language formerly part of Rule 107.01. Because the district court applies discretion to order a bond in extraordinary circumstances, the committee recommends that the amount of a bond be determined by the trial court, up to \$1,000. The amount of bond should be lower in many cases under the new rules, as the measure of potential costs is the respondent's costs, not the appellant's, and all costs are expected to be reduced as fewer copies of paper briefs need to be prepared under the amended rules, the appendix is not allowed, and the cost of paper transcripts is not required for the court or for most parties.

Rule 107.03 retains the existing rule provisions that establish seven categories of cases for which a bond may not properly be required, even upon application to the trial court.

Rule 110. The Record on Appeal

110.01 Composition of the Record on Appeal

The ~~papers~~documents filed in the trial court, the exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases.

110.02 The Transcript of Proceedings; Duty of Appellant to Order; Notice to Respondent if Partial Transcript is Ordered; Duty of Reporter; Form of Transcript

* * *

Subd. 2. Transcript Certificates. (a) If any part of the proceedings is to be transcribed by a court reporter, a certificate as to transcript signed by the designating counsel and by the court reporter shall be filed with the clerk of the appellate courts, with a copy to the trial court and all counsel of record within 10 days of the date the transcript

was ordered. The certificate shall contain the date on which the transcript was requested; the estimated number of pages; the estimated completion date not to exceed 60 days; a statement that satisfactory financial arrangements have been made for the transcription; and the court reporter's address and telephone number.

(b) If, within 10 days after the filing of a transcript certificate required by subdivision 2(a) of this rule, any party makes a written request to the designating counsel that a paper transcript be provided to that party in lieu of an electronic transcript, the appellant or designating attorney or party shall file with the clerk of the appellate courts an amended transcript certificate confirming that satisfactory financial arrangements have been made for the preparation of the transcript and any timely requested paper copy or copies. The amended transcript certificate shall not extend the estimated completion date.

(b) Upon filing of the transcript with the trial court administrator and delivery to counsel of record, the reporter shall file with the clerk of the appellate courts a certificate of filing and delivery. The certificate shall identify the transcript(s) delivered; specify the dates of filing of the transcript with the trial court administrator and delivery to counsel; and shall indicate the method of delivery. The certificate shall also contain the court reporter's address and telephone number.

(d) The reporter's certificates required by sections (a) and (c) of this subdivision shall be filed electronically with the clerk of appellate courts using the appellate courts' e-filing and e-service system and shall be served on all attorneys and unrepresented parties. The reporter may, but need not, use that system to serve copies of these certificates on attorneys registered for use of the system, and need not provide separate proof of service for certificates served electronically.

* * *

Subd. 4. Transcript Requirements. The transcript shall be formatted for typewritten or printed on 8½ by 11 inch or 8½ by 10½ inch unglazed opaque paper with double spacing between each line of text, shall be bound at the left-hand margin, and shall contain a table of contents. To the extent possible, the transcript of a trial or other single court proceeding shall be consecutively paginated, regardless of the number of volumes. The name of each witness shall appear at the top of each page containing that person's testimony. A question and its answer may be contained in a single paragraph. The original and first copy of Compressed formats allowing more than one page of transcription to appear on a single page are not permitted for filed transcripts or for service on any party unless the party has consented to a compressed format.

In all appeals from the trial court, the court reporter shall file the transcript shall be filed with the trial court administrator in electronic format acceptable to the trial court administrator. and The court reporter shall promptly transmit a paper copy of the transcript shall be transmitted promptly to the attorney for each party to the appeal separately represented who has timely requested a paper copy in lieu of an electronic copy. For all other parties, the court reporter shall promptly transmit an electronic copy

of the transcript to the attorney for each party to the appeal separately represented. For civil appeals other than from the district court, a paper transcript may be substituted for an electronic transcript if an electronic transcript is not available.

All copies must be legible. The reporter shall certify the correctness of the transcript.

The transcript ~~should~~ shall include transcription of any testimony given by audiotape, videotape, or other electronic means, unless that testimony has previously been transcribed, in which case the transcript shall include the existing transcript of testimony, with appropriate annotations and verification of ~~what~~ the portions that were replayed at trial, as part of the official trial transcript.

~~In any matter, the parties may stipulate to file with the clerk of the appellate courts, in addition to the typewritten or printed transcripts, all transcripts prepared for an appeal in electronic form. The electronic form shall be on compact discs formatted for IBM-compatible computers and shall contain the transcript in ASCII or other self-contained format accessible by Windows-compatible operating systems with no additional software. The label on the disc must include the case name and the case file number. One copy of the disc must be served on each party separately represented by counsel. The filing party must certify that the disc has been scanned for viruses and that it is virus free.~~

Advisory Committee Comment—2014 Amendments

The amendments in rule 110.02 serve a single purpose: to replace the presumed production of a paper transcript with an electronic transcript that becomes part of the record on appeal. The rule retains the provision for filing the transcript with the trial court, where it will become part of the record prepared for the appellate court. For districts and counties where electronic filing is in place, transcripts should be filed using the electronic filing system. In counties where electronic filing is not in use, the appellate court may require that the electronic transcript be filed on CD-ROM or other electronically accessible medium.

The rule presumes that all parties in civil appeals from the trial court will receive transcripts in electronic format, but permits them to request them in paper format by making a written request not later than the 10 days after service of the transcript certificate. A party is entitled to a transcript in only one format at the expense of the party ordering the transcript, so a party electing to receive a paper transcript will not receive an electronic transcript. If a party makes a timely request in writing for a paper transcript in lieu of the electronic transcript after the transcript certificate required by Rule 110.02, subdivision 2(a) has been filed, the appellant must prepare an amended transcript certificate confirming that adequate financial arrangements have been made for any paper copies that are timely requested and not originally provided for. Because this

necessarily occurs early in the transcript-preparation period, the rule provides that changing the format does not affect the projected delivery date for the transcript. If unusual circumstances warrant, the appellant may move for an extension of the transcript due date. For civil appeals not from the trial court, including agency or other administrative body appeals, it is not necessary that an electronic transcript be prepared. The rule permits an electronic transcript for those agencies or bodies that are able to prepare a transcript in electronic form.

The committee does not contemplate that this rule would be made effective for criminal appeals for purposes of the presumptive delivery to the parties of an electronic transcript, at least not upon adoption in 2014. Paper transcripts are needed in criminal cases, and many clients lack access to devices that would permit them to read electronic transcripts.

110.05 Correction or Modification of the Record

If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and determined by the trial court and the record made to conform. If anything material to either party is omitted from the record by error or accident or is misstated in it, the parties by stipulation, or the trial court, either before or after the record is transmitted to the appellate court, or the appellate court, on motion by a party or on its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be approved and transmitted. All other questions as to the form and content of the record shall be presented to the appellate court by motion.

Rule 111. Transmission of the Record

111.01 Transmission of Record; Time

Within 10 days after the due date for the filing of the appellant's brief, the trial court administrator shall prepare the record and transmit it or make it electronically available ~~the record~~ to the clerk of the appellate courts, together with a numbered itemized list ~~in quadruplicate~~ of all documents and exhibits contained in the record, identifying each with reasonable definiteness; each document and exhibit shall be endorsed with the corresponding number from the itemized list. The trial court administrator shall send a copy of this list to all parties. A party having possession of exhibits shall transmit them with an itemized list ~~in quadruplicate~~ to the clerk of the appellate courts within 10 days after the due date for the filing of the respondent's brief. A party shall make advance

arrangements with the clerk for the delivery of bulky or weighty exhibits and for the cost of transporting them to and from the appellate courts. ~~Transmission of the record is effected when the trial court administrator mails or otherwise forwards the record to the appellate courts.~~

Advisory Committee Comment—2014 Amendments

Rule 111.01 is amended to remove the requirement that the itemized list of the documents in the record be filed in quadruplicate. This change is consistent with the deletion of the requirement for filing multiple copies as part of the implementation of electronic filing. The last sentence of the rule is deleted because there is no longer any timing requirement or other rule provision that requires determination of the date of transmission of the record.

* * *

111.04 Disposition of Record after Appeal

Upon the termination of the appeal, the clerk of the appellate courts shall ~~transmit the original transcript to the State Law Library and may transmit~~ return any tangible portions of the remainder of the record to the trial court administrator.

Advisory Committee Comment—2014 Amendments

Rule 111.04 is amended to remove the requirement that transcripts be forwarded to the State Law Library at the completion of an appeal. The reason for this change is simple: the State Law Library no longer needs them. The record itself will increasingly be provided to the appellate courts only as a set of directions from the trial court as to where the electronic version of filings can be located. The rule is therefore amended to limit the requirement of returning the record to the trial court administrator to the relatively small number of tangible things, such as physical evidence, original exhibits, and models that might have been transmitted to the appellate courts as part of the record. In most civil appeals from the trial courts, the record will be entirely electronic, and there will be no original materials to return to the trial court.

Rule 112. Confidential Information; Sealing of Portions of Record

Rule 112.01 Status of Confidential Record Material on Appeal

Subdivision 1. Materials Not Available to the Public. Materials that are filed in the trial court under seal or in another manner that makes the materials unavailable to the public pursuant to statute, court rule, or trial court order, as well as any documents containing restricted identifiers as defined in Rule 11 of the General Rules of Practice, will remain under seal or not available to the public on appeal unless either the trial court or appellate court orders otherwise.

Subd. 2. Sealing of Materials on Appeal. In ~~extraordinary~~ situations where material in the record is confidential or trade-secret information that was not protected by a confidentiality order in the trial court, a party may move to have it filed under seal on appeal. The motion must demonstrate the need for sealing the information and must set forth the efforts made to maintain the confidentiality of the information before the motion was brought.

Rule 112.02 Handling of Confidential Portions of the Appellate Record

Any materials that are filed under seal or in another manner that makes the materials unavailable to the public and that need to be included in an addendum ~~or appendix~~ and shall be filed in a sealed envelope designated as “Filed under Seal pursuant to Order of the _____ Court dated _____” or in substantially similar form that describes the basis for the assertion of confidentiality. Documents filed electronically must be similarly segregated and designated.

Rule 112.03 Duty to Maintain Confidentiality

Every party to an appeal must take reasonable steps to prevent the disclosure of confidential information, both in oral argument and in written submissions filed with the court, except in the manner prescribed in Rule 112.02. The court, on its own initiative or the motion of any party, may impose sanctions for the failure to comply with this rule, including the imposition of the costs of preparing appropriate documents for filing. Such a motion may be brought by a non-party to the appeal who is adversely affected by the failure to comply.

Advisory Committee Comment—2014 Amendments

All participants in the appellate process must take reasonable measures to assure that confidential information is not exposed to public access by filing or discussion in open court. This requirement exists for traditional paper filings, but the consequences of its violation for documents filed electronically can be dramatic, and the filer violating the rules can be subjected to sanctions as well as exposed to liability.

Appellate court filers should realize that filings in the appellate courts are presumed to be accessible to the public. *See generally*

Minnesota Rules of Public Access to Records of the Judicial Branch. The access rules also define categories of records that are not accessible to the public. Other rules and statutes define constraints on materials that should not be filed publicly. *See, e.g.*, Minn. Gen. R. Prac. 11 (district court records); Minn. R. Juv. Del. P. 30; Minn. R. Juv. Prot. P. 8.04. Three compilations that illustrate additional bases for access to the records of the judicial branch and for limiting that access are available on the Judicial Branch website under the “Public Access” link. Those compilations do not provide comprehensive information on all categories or bases for access or confidentiality. Materials in any appeal dealing with records that are not accessible under the rules of an agency or trial court should be protected from public disclosure on appeal.

The rule intends that decisions about confidentiality should in most situations be made by the trial court, and that confidential records should be given appropriate protection in the trial court record. The appellate courts will then extend that protection to the materials sealed in the trial court during the pendency of the appeal. Materials not filed under seal in the trial court will rarely be sealed for the first time on appeal, but parties may move the appellate court to restrict access to confidential materials that were inadvertently or improperly filed without restrictions on public access. Filers redacting documents should be careful to ensure that the redaction removes the confidential information in a way that it cannot be retrieved. Masking it electronically may not fully remove it from the document, allowing it to be retrieved. Similarly, it may be contained in a document’s metadata if it is not carefully removed.

In many situations the issues on appeal do not require submission of any confidential information to the appellate court. For example, there are many cases where a minor’s birthdate is in the record, but has no relevance to the appellate issues, and a document containing this information can be simply excluded from the addendum or, at most, a redacted version can be included. For those cases where the information itself is germane to the appellate issues, it can be provided to the court under seal and redacted versions filed for public access.

This rule is amended to clarify the importance of these issues, and to provide a clear mandate that the parties attend to their obligation to avoid disclosure of any confidential materials. Rule 112.03 includes an express provision for the imposition of sanctions for the failure to use reasonable steps to prevent the disclosure of confidential materials. Recognizing that the failure to comply with the rule may injure individuals or entities that are not parties to the appeal, the rule expressly allows them to seek relief

under the rule. Non-parties to the appeal would include parties to the underlying action who are not made parties to the appeal as well as third parties whose confidential information is for any reason made part of the record.

Rule 114. Court of Appeals Review of Administrative Rules

114.01 How Obtained

Review by the Court of Appeals of the validity of administrative rules pursuant to Minnesota Statutes, section 14.44 may be obtained by:

- (a) filing a petition for declaratory judgment with the clerk of the appellate courts;
- (b) paying the filing fee of \$550 to the clerk of the appellate courts, unless no fee is required pursuant to Rule 103.01, subdivision 3;
- (c) serving the petition upon the attorney general and the agency or body whose rule is to be reviewed; and
- (d) filing proof of service with the clerk of the appellate courts; ~~and~~
- (e) ~~filing a cost bond or other security with the agency or body, unless no bond is if required pursuant to Rule 107, subdivision 2, or the agency or board waives the bond.~~

No cost bond need be filed unless required upon motion for good cause pursuant to Rule 107.

Advisory Committee Comment—2014 Amendments

Rule 114.01 is amended to remove the requirement for filing a cost bond except if ordered by the agency. See Rule 107. (“Trial court” in Rule 107 is defined in Rule 101.02, subdivision 4, to include an agency from which an appeal is taken.)

114.02 Contents of Petition for Declaratory Judgment

The petition shall briefly describe the specific rule to be reviewed and the errors claimed by petitioner. ~~An original and one copy of the completed statement of the case pursuant to Rule 133.03 and a copy of the rule which is to be reviewed shall be attached to the petition.~~ The completed statement of the case pursuant to Rule 133.03 and a copy of the rule which is to be reviewed shall be attached to the petition. The title and form of the petition ~~shall~~ should conform to that shown in the appendix to these rules.

Advisory Committee Comment—2014 Amendments

Rule 114.02 is amended to eliminate the requirement that an

additional copy of the statement of the case be filed.

* * * *

114.04 Briefing

Petitioner shall serve and file a brief and ~~appendix-addendum~~ within 30 days after transmission of the record by the agency or body, and briefing shall proceed in accordance with Rule 131.01.

* * *

TITLE III. DECISIONS REVIEWABLE BY CERTIORARI TO THE COURT OF APPEALS OR THE SUPREME COURT

Rule 115. Court of Appeals Review of Decisions of the Department of Employment and Economic Development and Other Decisions Reviewable by Certiorari and Review of Decisions Appealable Pursuant to the Administrative Procedure Act

* * *

115.03 Contents of the Petition and Writ; Filing and Service

Subdivision 1. Contents and Form of Petition, Writ and Response. The petition shall definitely and briefly state the decision, judgment, order or proceeding ~~which~~ that is sought to be reviewed and the errors ~~which~~ that the petitioner claims. A copy of the decision and ~~an original and one copy of a completed~~ the statement of the case pursuant to Rule 133.03 shall be ~~attached to the petition~~ included in an addendum prepared as prescribed by Rule 130.02. The title and form of the petition and writ shall be as shown in the appendix to these rules. The respondent's statement of the case, if any, shall be filed and served not later than 14 days after service of the petitioner's statement.

Subd. 2. Bond or Security. (a) No cost bond need be filed unless ~~The petitioner shall file with the agency or body the cost bond required upon motion for good cause pursuant to Rule 107., unless no bond is required under Rule 107, subd. 2, or by statute, or the bond is waived under Rule 107, subd. 1.~~

* * *

Subd. 4. Service. The petitioner shall serve a copy ~~copies~~ of the petition and the writ, if issued, upon the agency or body to which it is directed and upon every party. Proof of service shall be filed with the clerk of the appellate courts within ~~five~~ 5 days of

service. A copy of the petition and writ shall be provided to the Attorney General, unless the state is neither a party nor the body to which the writ is directed.

Advisory Committee Comment—2014 Amendments

Rule 115.03 retains provision for the possibility of a cost bond being required, but in most cases no cost bond will be required because of the amendment to Rule 107 to require a bond only if one is ordered by the trial court. In an exceptional case, the appellate court could view the denial of a motion to require a bond to be an abuse of the trial court's broad discretion and would require a bond.

115.04 The Record on Review by Certiorari; Transmission of the Record

* * *

Subd. 4. Timing of Briefing. Relator shall serve and file a brief and ~~appendix~~ addendum within 30 days after the service of the itemized list of contents of the record by the agency or body, and briefing shall proceed in accordance with Rule 131.01.

Rule 116. Supreme Court Review of Decisions of the Workers' Compensation Court of Appeals, Decisions of the Tax Court, and Other Decisions Reviewable by Certiorari

* * *

116.02 Petition for Writ; How Secured

The petition and a proposed writ of certiorari shall be ~~presented to~~ filed with the clerk of the appellate courts. The writ issued shall be in the name of the court.

116.03 Contents of the Petition and Writ; Filing and Service

Subdivision 1. Contents and Form of Petition, Writ and Response. The petition shall definitely and briefly state the decision, judgment, order or proceeding ~~that which~~ is sought to be reviewed and the errors ~~that which~~ the petitioner claims. A copy of the decision and ~~the two copies of a completed~~ statement of the case pursuant to Rule 133.03 shall be ~~attached to~~ filed with the petition. The title and form of the petition and writ should be as shown in the appendix to these rules. The respondent's statement of the case, if any, shall be filed and served within 14 days after service of the petitioner's

statement.

* * *

Subd. 4. Service; Time. The petitioner shall serve copies of the petition and writ upon the court or body to whom it is directed and upon any party within 30 days after the petitioner was served with written notice of the decision to be reviewed, unless an applicable statute prescribes a different period of time. Proof of service shall be filed with the clerk of the appellate courts within 5 days of service. A copy of the petition and writ shall be ~~provided to~~ served on the Attorney General at the time of service.

Advisory Committee Comment—2014 Amendments

Rule 116 is amended to clarify its intended operation. The former rule contained requirements that the petition and proposed writ be “presented” to the clerk of appellate courts and “provided to” the Attorney General. For the sake of clarity, the rule replaces “presented to” with “filed with” to align it with other rules requiring filing. Similarly, the process for “providing” something to another party throughout the rules is called “service.” Rule 116 now incorporates that customary nomenclature.

Rule 117. Petition in Supreme Court for Review of Decisions of the Court of Appeals

* * *

Subd. 3. Petition Requirements. The petition for review shall not exceed ~~five~~ 5 typewritten pages, exclusive of ~~appendix~~ addendum, and shall contain:

* * *

The ~~appendix-addendum~~ shall contain the decision and opinion of the Court of Appeals, and shall otherwise be prepared as prescribed by Rule 130.02. ~~the judgments, orders, findings of fact, conclusions of law, and memorandum decisions of the trial court or administrative agency, pertinent trial briefs, and any portion of the record necessary for an understanding of the petition.~~

~~Four copies of the~~ The petition and ~~appendix-addendum~~ shall be filed with the clerk of the appellate courts.

Advisory Committee Comment—2014 Amendments

Proof of service as required by Rule 117, subdivision 1, has

traditionally been accomplished by an affidavit of service. For documents served using the appellate courts' electronic filing and service system, proof of service is generated by the system and electronically accompanies the served document; no separate proof of service is required.

Only a single copy of the petition and addendum need be filed.

Rule 118. Accelerated Review by the Supreme Court Prior to a Decision by the Court of Appeals

* * *

Subd. 2. Petition Requirements. The petition for accelerated review shall not exceed ~~ten~~ 10 typewritten pages, exclusive of ~~appendix-addendum~~, and shall contain:

- (a) a statement of the issues;
- (b) a statement of the case, including all relevant facts, and disposition in the trial court or administrative agency; and
- (c) a brief argument in support of the petition.

The ~~appendix-addendum~~ shall contain the judgments, orders, findings of fact, and conclusions of law, for which review is sought, and shall otherwise be prepared as prescribed by Rule 130.02. ~~and memorandum decisions of the trial court or administrative agency, pertinent trial briefs, and any portion of the record necessary for an understanding of the petition.~~

~~Four copies of the~~ The petition and ~~appendix-addendum~~ shall be filed with the clerk of the appellate courts.

* * *

Advisory Committee Comment—2014 Amendments

Only a single copy of the petition and addendum need be filed.

TITLE V. EXTRAORDINARY WRITS

Rule 120. Writs of Mandamus and Prohibition Directed to a Judge or Judges and Other Writs

120.01 Petition for Writ

Application for a writ of mandamus or of prohibition or for any other extraordinary writ in the Supreme Court directed to the Court of Appeals, the Tax Court, or the Workers' Compensation Court of Appeals, or in the Court of Appeals directed to a trial court, shall be made by petition. The petition shall specify the lower court decision and the name of the judge and shall contain:

- (a) a statement of the facts necessary to an understanding of the issues presented by the application;
- (b) a statement of the issues presented and the relief sought; and
- (c) a statement of the reasons why the extraordinary writ should issue.

~~Petitioner shall attach a copy of the trial court decision challenged in the petition, and if necessary to an understanding of the issues, additional pertinent lower court documents.~~ A copy of any order or written action the application seeks to address and any findings of fact, conclusions of law, or memorandum of law relating to it shall be included in an addendum, which may include any portion of the record necessary for an understanding of the application.

The petition shall be titled "In re (name of petitioner), Petitioner," followed by the trial court caption, and shall be captioned in the court in which the application is made, in the manner specified in Rule 120.04.

* * *

120.04 Filing; Form of ~~Papers~~ Documents; ~~Number of Copies~~

Upon receipt of a \$550 filing fee, the clerk of the appellate courts shall file the petition. All ~~papers~~ documents and briefs ~~may must~~ be ~~typewritten~~ and in the form specified in Rule 132.02. ~~Four copies~~ The petition with and proof of service shall be filed with the clerk of the appellate courts, but the reviewing court may direct that additional copies be provided. Service of all ~~papers~~ documents and briefs may be made personally, by mail, or electronically if authorized or required by order of the Minnesota Supreme Court.

Advisory Committee Comment—2014 Amendments

Rule 120.04 is amended to provide for electronic filing of extraordinary writ applications. The rule provides for service electronically using the appellate courts' e-filing and e-service system where authorized by supreme court order. As is true throughout these rules, only a single copy of any document is required to be filed, regardless of the method of filing.

Rule 120 is also amended to change references to "papers" to "documents." This change is not intended to change the interpretation of the rule, other than to recognize that not all appellate court filings are in paper format.

TITLE VII. GENERAL PROVISIONS

Rule 125. Filing and Service

125.01 Filing

~~Papers~~ (a) Documents required or authorized to be filed by these rules shall be filed with the clerk of the appellate courts within the time limitations contained in the applicable rule. Filing with the clerk of the appellate courts may be accomplished by one of the following means:

(1) By use of the appellate courts' electronic filing system if required by an order of the Minnesota Supreme Court.

(2) If electronic filing is not required by an order of the Minnesota Supreme Court,

A. By United States Mail addressed to the clerk of the appellate courts; ~~but filing shall not be timely unless the papers documents are deposited in the mail within the time fixed for filing.~~

B. By use of the appellate courts' electronic filing system if permitted by an order of the Minnesota Supreme Court; or

Filing may be accomplished ~~by~~ C. By hand delivery to the clerk of appellate courts or use of a commercial courier service. ~~and shall be effective upon receipt by the clerk of the appellate courts.~~

(b) Filing by facsimile or ~~other~~ electronic means other than as authorized or required by an order of the Minnesota Supreme Court is not allowed in the appellate courts, except with express leave of the court.

(c) Filing shall occur at the time and date of:

(1) Electronic filing for any document electronically submitted for filing by 11:59 p.m. at the court's local time, so long as it is accepted by the clerk upon review;

(2) mailing by United States Mail addressed to the clerk of the appellate courts; or

(3) receipt by the clerk of the appellate courts during normal office hours for documents filed by hand delivery or by use of a commercial courier service.

(d) For any document that is required or permitted under these rules to be filed with the trial court, the filer may file or serve the document using the trial court's electronic service system or any other means authorized by the trial court rules. Separate proof of such service must be filed with the clerk of the appellate courts. Any party to the trial court proceedings registered for use of the trial court's electronic service system shall be deemed to have consented to receive service in this manner.

(e) If a motion or petition requests relief that may be granted by a single judge, the judge may accept the document for filing, in which event the date of filing shall be noted on it and it shall be thereafter transmitted to the clerk of the appellate courts.

(f) All ~~papers~~-documents filed shall include the attorney registration license number of counsel filing the ~~paper~~-document and, if filed subsequent to the notice of appeal, shall specify the appellate court docket number, if one has been assigned.

125.02 Service and Filing of All ~~Papers~~-Documents Required

Copies of all ~~papers~~-documents filed by any party shall be served by that party, at or before the time of filing, on all other parties to the appeal or review. ~~Papers~~-Documents shall be filed with the clerk of the appellate courts at the time of service or immediately thereafter. Service on a party represented by counsel shall be made on the attorney.

125.03 Manner of Service

Unless otherwise required by Rule 114.01, sService may be electronic by use of the appellate courts' electronic filing system if required or permitted by court order, personal, or by United States Mail. Personal service includes delivery of a copy of the document to the attorney or other responsible person in the office of the attorney, or to the party, if not represented by counsel, in any manner provided by Rule 4, Minnesota Rules of Civil Procedure.

Electronic service is complete upon confirmation from the appellate courts' electronic filing system that it has been accomplished. Service by United States Mail is complete on mailing, ~~however,~~

~~w~~Whenever a party is required or permitted to do an act within a prescribed period after service and the ~~paper~~-document is served by United States Mail, 3 days shall be added to the prescribed period. If a document is served electronically or personally after 5:00 p.m. at the court's local time, 1 day shall be added to the prescribed period.

Personal service may be effected by use of a commercial courier service, and ~~it~~ shall be effective upon receipt.

Service by facsimile or other electronic means other than as authorized or required by

an order of the Minnesota Supreme Court is allowed only with the consent of the party to be served, and is effective upon receipt.

125.04 Proof of Service

~~Papers presented for filing shall contain either a written admission of service or an affidavit of service. Proof of service may appear on or be affixed to the papers filed.~~

Every document required by these rules to be served on other parties must be filed with proof of service contained on or affixed to the document. Service may be proven by any of the following means:

- (a) Confirmation of service by authorized use of the appellate courts' electronic filing system, in which event separate proof of service need not be filed
- (b) Written admission of service, or
- (c) An affidavit or certificate of service.

The clerk of the appellate courts may permit ~~papers~~documents to be filed without proof of service, but shall require proof of service to be filed promptly after filing the ~~papers~~documents.

Advisory Committee Comment—2014 Amendments

Rule 125 is amended to provide explicitly for filing and service of documents electronically.

While filing by facsimile or other electronic means is not permitted without an order from the court authorizing it, the parties may consent to service by facsimile or e-mail (the primary “other electronic means” that might be elected). Service by any means other than electronic service using the appellate courts’ e-service system requires that proof of service be filed with the clerk of the appellate courts. The rule now authorizes the use of a certificate of service, which may be filed to verify based on facts stated that service has been effected using the specified means, but does not have to be made in the form of an affidavit on personal knowledge of the person serving the documents.

Rule 125.01(d) is a new provision that defines the interaction of the trial court rules for service with these rules. It permits documents that are to be filed in the trial court to be filed and served by any means authorized by the trial court rules. This rule is intended to permit parties to use the trial court’s electronic filing and electronic service system for these documents. Because that filing would not result in proof of service being transmitted to the appellate courts’ electronic filing system, separate proof of service must be filed with the clerk of the appellate courts. This proof might be provided, for example, by certificate of service that

recites the fact of service and the fact of confirmation received from the district court system, attaching a copy of the confirmation message.

Rule 125 is also amended to change several references to “papers” to “documents.” This change is not intended to change the interpretation of the rule, other than to recognize that not all appellate court filings are in paper format.

Rule 127. Motions

Unless another form is prescribed by these rules, an application for an order or other relief shall be made by serving and filing a written motion for the order or relief. The filing of a motion shall not stay any time period or action specified in these rules unless ordered by the appellate court. The motion shall state with particularity the grounds and set forth the order or relief sought. If the motion is supported by briefs, affidavits or other ~~papers~~ documents, they shall be served and filed with the motion. Any party may file a response within 5 days after service of the motion. Any reply shall be served within 2-3 days, at which time the motion shall be deemed submitted. The motion and all ~~relative-related papers~~ documents may be typewritten. ~~Four copies of all papers~~ Each document shall be filed with proof of service. Oral argument will not be permitted except by order of the appellate court.

Advisory Committee Comment—2014 Amendments

Rule 127 is amended only to change references to “papers” to “documents.” This change is not intended to change the interpretation of the rule, other than to recognize that not all appellate court filings are in paper format. The time to reply to a response to a motion is increased from 2 to 3 days.

Rule 128. Briefs

128.01 Informal Briefs and Letter Briefs

Subdivision 1. Informal Briefs. Informal briefs may be authorized by the appellate court and shall contain a concise statement of the party's arguments on appeal, together with the ~~appendix~~ addendum required by Rule 130.01. The informal brief shall have a cover and any paper copy may be bound ~~informally~~ by stapling.

Subd. 2. Reliance Upon Trial Court Memoranda. If counsel elects, in the statement of the case, to rely upon memoranda submitted to the trial court supplemented by a short letter argument, the submission shall be covered and any paper copy may be

~~informally~~ bound by stapling. The trial court submissions and decision shall be attached as the appendix included in the addendum.

Advisory Committee Comment—2014 Amendments

Rule 128.01 is amended to make it clear that documents that are served and filed electronically are not stapled—only paper versions of these documents are to be stapled.

128.02 Formal Brief

Subdivision 1. Brief of Appellant. The formal brief of the appellant shall contain under appropriate headings and in the order here indicated:

(a) A table of contents, with page references, and an alphabetical table of cases, statutes, and other authorities cited, with references to the pages of the brief where they are cited.

(b) A concise statement of the legal issue or issues involved, omitting unnecessary detail. Each issue shall be stated as an appellate court would state the broad issue presented. Each issue shall be followed by:

- (1) a description of how the issue was raised in the trial court, including citations to the record;
- (2) a concise statement of the trial court's ruling;
- (3) a description of how the issue was subsequently preserved for appeal, including citations to the record; and
- (4) a list of the most apposite cases, not to exceed four, and the most apposite constitutional and statutory provisions.

(c) A statement of the case and the facts. A statement of the case shall first be presented identifying the trial court and the trial judge and indicating briefly the nature of the case and its disposition. There shall follow a statement of facts relevant to the grounds urged for reversal, modification or other relief. The facts must be stated fairly, with complete candor, and as concisely as possible. Where it is claimed that a verdict, finding of fact or other determination is not sustained by the evidence, the evidence, if any, tending directly or by reasonable inference to sustain the verdict, findings or determination shall be summarized. Each statement of a material fact shall be accompanied by a reference to the record, as provided in Rule 128.03.

(d) An argument. The argument may be preceded by a summary introduction and shall include the contentions of the party with respect to the issues presented, the applicable standard of appellate review for each issue, the analyses, and the citations to the authorities. Each issue shall be separately presented. Needless repetition shall be avoided.

(e) A short conclusion stating the precise relief sought.

(f) The ~~appendix~~ addendum required by Rule ~~130.01~~ 130.02.

Subd. 2. Brief of Respondent. The formal brief of the respondent shall conform to the requirements of Rule 128.02, subdivision 1, except that a statement of the issues or of the case or facts need not be made unless the respondent is dissatisfied with the statement of the appellant. If a notice of related appeal is filed pursuant to Rule 103.02, subdivision 2, the respondent's brief shall present the issues specified in the notice of related appeal. A respondent who fails to file a brief either when originally due or upon expiration of an extension of time shall not be entitled to oral argument without leave of the appellate court.

Subd. 3. Addendum. ~~(a) Contents. Appellant must prepare an addendum and file it with the opening brief. The addendum must include:~~

~~(1) a copy of any order, judgment, findings, or trial court memorandum in the action directly relating to or affecting issues on appeal; and~~
~~(2) short excerpts from the record, other than from the transcript of testimony, that would be helpful in reading the brief~~

~~(b) Length. The addendum must not exceed 15 pages excluding the orders and judgments required by subdivision (1)(a) of this rule and any material reproduced in the addendum Rule 128.04. The addendum must be incorporated into the back of the brief, unless it includes a long district court decision, in which event it may be bound separately. If bound separately, the appellant must file the same number of addenda as briefs.~~

~~(c) Respondent's Addendum. The respondent's brief may include an addendum not to exceed 15 pages, which must be incorporated into the back of the brief. If the addendum filed by the appellant omits any material required by section (a)(1) or (2) of this subdivision or pursuant to Rule 128.04, the respondent may include it in the respondent's addendum in addition to the 50 pages otherwise allowed.~~

~~(d) Non-Duplication. A document or other material included in any party's addendum need must not be included in any appendix other party's addendum.~~

* * *

Advisory Committee Comment—2014 Amendments

Rule 128.02 is modified primarily to delete references to the appendix, which is no longer permitted or required in any appellate proceeding. See Rule 130.01, subdivision 1. The appendix is replaced by an expanded addendum, as provided in Rule 130.

128.03 References in Briefs to Record

Whenever a reference is made in the briefs to any part of the record ~~that~~ which is

reproduced in the addendum ~~or appendix or in a supplemental record~~, the reference shall be made to the specific pages of the addendum ~~or appendix or the supplemental record~~ where the particular part of the record is reproduced. Whenever a reference is made to a part of the record ~~that which~~ is not reproduced in the addendum ~~or appendix or in a supplemental record~~, the reference shall be made to the particular part of the record, suitably designated, and to the specific pages of it, e.g., Motion for Summary Judgment, filed 10/3/13, at p. 1; Transcript, at p. 135; Plaintiff's Exhibit D, p. 3. Intelligible abbreviations may be used, e.g. Tr. 135, Add. 41, Resp. Add. 22.

128.04 Reproduction of Statutes, Ordinances, Rules, Regulations, Etc.

If determination of the issues presented requires the study of statutes, ordinances, rules, regulations, etc., or relevant parts of them, that are not readily available in a publically available electronic database or Minnesota law libraries, they shall be reproduced in the brief or ~~in an addendum, or they may be supplied to the court in pamphlet form.~~

128.05 Citation of Supplemental Authorities

If pertinent and significant authorities come to a party's attention after the party's brief has been filed or after oral argument but before decision, a party may promptly ~~advise~~ file a letter with the clerk of the appellate courts ~~by a letter, with a copy to all other parties,~~ setting forth the citations. The letter must state without argument the reasons for the supplemental citations, referring either to the page of the brief or to the point argued orally. Proof of service shall be made as defined by Rule 125.04. Any response must be made promptly and must be similarly limited.

Rule 130. The Addendum Required; Appendix Not Permitted to the Briefs; Supplemental Record

130.01 Record Not to be Printed; ~~Appellant to File~~ Appendix Not Permitted

Subdivision 1. Record; Portions. The record shall not be printed. No party may submit an appendix to its brief. ~~The appellant shall prepare and file an appendix to its brief. The appendix shall be separately and consecutively numbered and shall contain the following portions of the record:~~

- ~~—(a) the relevant pleadings;~~
- ~~—(b) the relevant written motions and orders;~~
- ~~—(c) the verdict or the findings of fact, conclusions of law and order for judgment;~~
- ~~—(d) the relevant post trial motions and orders;~~

- ~~—(e) any memorandum opinions;~~
- ~~—(f) if the trial court's instructions are challenged on appeal, the instructions, any portion of the transcript containing a discussion of the instructions and any relevant requests for instructions;~~
- ~~—(g) any judgments;~~
- ~~—(h) the notice of appeal;~~
- ~~—(i) if the constitutionality of a statute is challenged, proof of compliance with Rule 144; and~~
- ~~—(j) the index to the documents contained in the appendix.~~

The parties shall have regard for the fact that the entire record is always available to the appellate court for reference or examination, ~~and shall not engage in unnecessary reproduction. Any documents included in an addendum to a party's brief need not be included in the appendix.~~

Subd. 2. Statement of the Proceedings or Agreed Statement. If the record includes a statement of the proceedings made pursuant to Rule 110.03 or an agreed statement made pursuant to Rule 110.04, the statement shall be included in the ~~appendix~~ addendum prepared as prescribed by Rule 130.02.

Advisory Committee Comment—2014 Amendments

Rule 130.01 is amended to delete provisions requiring an appendix, as the appendix is no longer required or permitted for any appellate proceedings. The court has the entire record available to it and the appendix is often bulky, expensive to produce, serve, and store, and is of limited value in most appeals.

130.02 ~~Respondent May File Appendix~~ Addendum

If the respondent determines that the appendix filed by the appellant omits any items specified in Rule 130.01, only those omitted items may be included in an appendix to the respondent's brief.

(a) Contents. Appellant must prepare an addendum and file it with the opening brief or petition. The addendum must include:

- (1) a copy of any order, judgment, findings, or trial court memorandum in the action directly relating to or affecting the issues on appeal;
- (2) any agreed statement of the record; and
- (3) if the constitutionality of a statute is challenged, proof of compliance with Rule 144.

(b) Length. The addendum must not exceed 50 pages excluding the orders and

judgments or other materials required by section (a) of this rule or included pursuant to Rule 128.04. The addendum must be incorporated into the back of the brief, unless it includes a long trial court decision, in which event it may be bound separately.

(c) Respondent's Addendum. The respondent's brief or response to a petition may include an addendum not to exceed 50 pages, which must be incorporated into the back of the brief. If the addendum filed by the appellant omits any material required by section (a) of this rule or pursuant to Rule 128.04, the respondent may include it in the respondent's addendum in addition to the 50 pages otherwise allowed.

(d) Other Addenda. Any addendum required other than with a formal brief shall also comply with the requirements of this rule.

(e) Non-Duplication. A party may not include in an addendum any material included in any other party's previously filed addendum.

Advisory Committee Comment—2014 Amendments

Rule 130.02 is amended to replace the provision calling for use of the appendix with reference to the addendum, as the appendix is no longer required or permitted.

130.03 Party May File Supplemental Record; Not Taxable Cost [Abrogated. July 1, 2014]

~~A party may prepare and file a supplemental record, suitably indexed, containing any relevant portion of the record not contained in the appendix. The original pagination of each part of the transcript set out in the supplemental record shall be indicated by placing in brackets the number of the original page at the place where the page begins. If the transcript is abridged, the pages and parts of pages of the transcript omitted shall be clearly indicated following the index and at the place where the omission occurs. A question and its answer may be contained in a single paragraph. The cost of producing the supplemental record shall not be a taxable cost.~~

Advisory Committee Comment—2014 Amendments

Former Rule 130.03 authorized the filing of a supplemental record. Because the record is delivered electronically to the appellate courts for civil actions or by other means for some administrative appeals, the use of a supplemental record is no longer necessary or helpful to the court (and has been rarely used in any event). Accordingly, this rule is abrogated.

Rule 131. Filing and Service of Briefs, ~~the Appendix and Addenda, and the~~ Supplemental Record

131.01 Time for Filing and Service

Subdivision 1. Appellant's Brief. The appellant shall serve and file a brief and ~~appendix-addendum~~ within 30 days after delivery of the transcript by the reporter or after the filing of the trial court's approval of the statement pursuant to Rules 110.03 and 110.04. If the transcript is delivered by United States Mail, ~~three~~ 3 days are added to the briefing period, which is measured from the date the transcript was mailed. If the transcript is obtained prior to appeal or if the record on appeal does not include a transcript, then the appellant shall serve and file a brief and ~~appendix-addendum~~ with the clerk of the appellate courts within 30 days after the filing of the notice of appeal, the petition which initiates the appeal, the appellate petition for declaratory judgment, or the appellate court order granting review

Subd. 2. Respondent's Brief. The respondent shall serve and file a brief and ~~appendix-addendum~~, if any, within 30 days after service of the brief of the appellant or the last appellant's brief, if there are multiple appellants, or within 30 days after delivery of a transcript ordered by respondent pursuant to Rule 110.02, subdivision 1, whichever is later.

* * *

~~**Subd. 4. Supplemental Record.** If a party prepares a supplemental record, the supplemental record shall be served and filed with that party's first brief.~~

* * *

131.02 Application for Extension of Time

Subdivision 1. Motion for Extension. No extension of the time fixed for the filing of a brief will be granted except upon a motion pursuant to Rule 127 made within the time specified for the filing of the brief. The motion shall be considered by a justice, judge or a person designated by the appellate court, acting as a referee, and shall be granted only for good cause shown. ~~Only an original of the motion shall be filed.~~

* * *

131.03 Number of Paper Copies to be Filed and Served

Subdivision 1. ~~Number of Copies.~~ ~~Unless otherwise specified by the appellate~~

court, the following number of copies of each brief, appendix, and addendum supplemental record, if any, shall be filed with the clerk of the appellate courts:

—(a) In an appeal to the Supreme Court, 14 copies. Two copies of the 14 shall be unbound.

—(b) In an appeal to the Court of Appeals, seven copies. One copy of the seven shall be unbound.

—If counsel has elected, in the statement of the case form, to rely on memoranda submitted to the trial court, supplemented by a short letter argument, the number of paper copies required by this rule shall be filed with the clerk of the appellate courts.

Required Number, Due Date, and Manner of Filing Paper Copies of Briefs. For paper copies, the required number, time, and manner of filing may be established either by standing order of the applicable appellate court or by other court order.

Subd. 2. Service. Two paper copies of each brief ~~appendix~~, and ~~addendum~~ ~~supplemental record, if any,~~ shall be served on the attorney for each party to the appeal separately represented and on each party appearing pro se. ~~The clerk shall not accept a brief, or appendix addendum, or supplemental record for filing unless it is accompanied by admission or p~~ Proof of service shall be made as required defined by Rule 125.04.

Advisory Committee Comment—2014 Amendments

Rule 131 is amended in several places to change references to the appendix to refer to the addendum. The use of an appendix as it formerly existed is no longer either required or permitted in any appellate proceedings.

As part of the implementation of electronic filing in the appellate courts, the courts may adjust the number of paper copies of briefs to be provided to the courts. This may be accomplished by standing order or by order in individual appeals. That order may also modify the required timing for filing paper briefs or the place or manner of filing.

Subdivision 2 of Rule 131.03 is amended to provide notice that the courts may further reduce the number of required paper copies of briefs and addenda. The rule allows the appellate courts to change the number of copies, or other requirements for filed copies, including the deadline for filing paper copies or place of filing. The courts could make these changes by order applicable to all appeals in that court, or by order with notice to the parties in a particular appeal or category of appeals.

**Rule 132. Form of Briefs, ~~Appendices~~ Addenda, ~~Supplemental Records~~, Motions
and other ~~Papers~~ Documents**

132.01 Form of Briefs and ~~Appendices~~ Addenda, ~~and Supplemental Records~~

Subdivision 1. Form Requirements. Any process capable of producing a clear black image on white paper may be used. Briefs shall be printed or typed on unglazed opaque paper. If a monospaced font is used, printed or typed material (including headings and footnotes) must appear in a font that produces a maximum of 10½ characters per inch; if a proportional font is used, printed or typed material (including headings and footnotes) must appear in at least 13-point font.

Formal briefs and ~~accompanying appendices~~ addenda shall be bound together by a method that securely affixes the contents, and that is substantially equivalent to the list of approved binding methods maintained by the clerk of appellate courts. Methods of binding that are not approved include stapling, continuous coil spiral binding, spiral comb bindings and similar bindings. Pages shall be 8½ by 11 inches in size with written matter not exceeding 6½ by 9½ inches. Written matter in briefs and addenda shall appear on only one side of the paper; ~~appendices and supplemental records may be produced in the same manner or using two-sided printing.~~ The pages of the ~~appendix~~ addenda shall be separately and consecutively numbered. Briefs shall be double-spaced, except for tables of contents, tables of authorities, statements of issues, headings and footnotes, which may be single-spaced. Carbon copies shall not be submitted.

Subd. 2. Front Cover. The front cover of the brief and ~~appendix~~ addendum shall contain:

- (a) the name of the court and the appellate court docket number, which number shall be printed or lettered in bold-face print or prominent lettering and shall be located one-half inch from the top center of the cover;
- (b) the title of the case;
- (c) the title of the document, e.g., Appellant's Brief and ~~Appendix~~ Addendum; and
- (d) the names, addresses, and telephone numbers of the attorneys representing each party to the appeal, and attorney registration license numbers of the preparers of the brief.

The front cover shall not be protected by a clear plastic or mylar sheet.

If briefs are formally bound, the cover of the paper brief of the appellant should be blue; that of the respondent, red; that of an intervenor or amicus curiae, green; that of any reply brief, gray. The cover of the ~~appendix~~ paper addendum, if separately printed, should be white. The cover of an amendment or supplement should be the same color as the document which it amends or supplements. The cover of any other document separately prepared under this rule should be white.

Subd. 3. Length Limit. Except for good cause shown and with permission of the appellate court, briefs, whether printed or typewritten, exclusive of pages containing the table of contents, tables of citations, and any addendum-containing statutes, rules, regulations, etc., and any appendix, shall not exceed 45 pages for principal briefs, 20 pages for reply briefs, and 20 pages for amicus briefs, unless the brief complies with one of these alternative measures:

- (a) A principal brief is acceptable if:
 - (1) it contains no more than 14,000 words; or
 - (2) it uses a monospaced font and contains no more than 1,300 lines of text.
- (b) A reply brief is acceptable if:
 - (1) it contains no more than 7,000 words; or
 - (2) it uses a monospaced font and contains no more than 650 lines of text.
- (c) An amicus brief is acceptable if:
 - (1) it contains no more than 7,000 words; or
 - (2) it uses a monospaced font and contains no more than 650 lines of text.

A brief submitted under Rule 132.01, ~~subd.~~ subdivision 3(a), (b), or (c) must include a certificate that the brief complies with the word count or line count limitation. The person preparing the certificate may rely on the word or line count of the word-processing software used to prepare the brief. The certificate must state the name and version of the word processing software used to prepare the brief, state that the brief complies with the typeface requirements of this rule, and state either:

- (1) the number of words in the brief; or
- (2) the number of lines of monospaced font in the brief.

Application for filing an enlarged brief shall be filed at least 10 days prior to the date the brief is due.

Advisory Committee Comment—2014 Amendments

Rule 132.01 is amended in several places to change references to the appendix to refer to the addendum. The use of an appendix as it formerly existed is no longer either required or permitted in any appellate proceedings.

132.02 Form of Motions and Other-Papers Documents

Subdivision 1. Form Requirements. ~~Papers-Documents~~ not required to be produced in the manner prescribed by Rule 132.01 shall be 8½ by 11 inches in size with typewritten matter not exceeding 6½ by 9½ inches. Any process capable of producing a clear black image on white paper may be used. All material must appear in at least 11-

point type, or its equivalent of not more than 16 characters per inch, on unglazed opaque paper. Pages shall be bound or stapled at the top margin and numbered at the center of the bottom margin. Typed ~~written matters~~ material shall be double spaced. Carbon copies shall not be submitted.

Subd. 2. Caption. Each paper-document shall contain a caption setting forth the name of the court, the title of the case, the appellate court docket number, and a brief descriptive title of the paper-document; and shall be subscribed by the attorney preparing the paper-document together with the preparer's address, telephone number, and attorney registration license number.

Advisory Committee Comment—2014 Amendments

Rule 132.02 is amended only to change references to “papers” to “documents.” This change is not intended to change the interpretation of the rule, other than to recognize that not all appellate court filings are in paper format.

132.03 Form of Documents Filed Electronically

Any documents filed or served electronically shall be in searchable Portable Document Format (PDF), Word, or WordPerfect format. Addendum materials that cannot readily be rendered in searchable form may be in non-searchable PDF format.

Advisory Committee Comment—2014 Amendments

Rule 132.03 is a new rule to specify the format for documents filed electronically when authorized or permitted by court order or court rules. The rule permits searchable PDF, Word, or WordPerfect documents, although searchable PDF is the preferred format. The rule recognizes that documents for an addendum may be difficult or impossible to prepare in searchable format, and for these documents, a non-searchable PDF document may be included. These documents would include photographs, advertisements, brochures, and medical records.

Rule 133. Prehearing Conference; Calendar

* * *

133.02 Calendar

No case shall be placed on the calendar for argument, except by special order of the

appellate court, until there has been filed in the appellate court the appellant's brief and ~~appendix~~addendum and the respondent's brief. If either the appellant or the respondent fails to file the required brief within the time provided, or an extension of that time, the case shall be disposed of in accordance with Rule 142.

Advisory Committee Comment—2014 Amendments

Rule 133.02 is amended to change a reference to the appendix to refer the addendum. The use of an appendix as it formerly existed is no longer either required or permitted in any appellate proceedings.

133.03 Statement of the Case

~~Two copies of a~~A statement of the case in the form prescribed by the appellate court shall be filed with any of the following:

- (a) a notice of appeal pursuant to Rule 103.01;
- (b) a notice of related appeal pursuant to Rule 103.02, subdivision 2;
- (c) a petition for declaratory relief pursuant to Rule 114.02; or
- (d) the petition for the writ of certiorari pursuant to Rules 115 or 116.

The appellant shall serve the attorney for each party separately represented and each party appearing pro se and shall file proof of service with the clerk of the appellate courts.

Within 14 days after service of the appellant's statement, the respondent may serve on all parties and file with proof of service ~~two copies of~~ its statement clarifying or supplementing the appellant's statement. If the respondent agrees with the particulars set forth in the appellant's statement, no additional statement need be filed. If a party desires oral argument, a request must be included in the statement of the case. If a party desires oral argument at a location other than that provided by Rule 134.09, subdivision 2(a) to (e), the location requested shall be included in the statement of the case.

Rule 134. Oral Argument

* * *

134.07 Trial Court Exhibits; Diagrams and Demonstrative Aids

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Subd. 2. Diagrams and Demonstrative Aids. In cases where a plat, diagram, or demonstrative aid will facilitate an understanding of the facts or of the issues involved, counsel shall either:

- (a) Provide a copy in the addendum to the brief ~~or in the appendix~~;
- (b) Provide individual copies to opposing counsel and the court before the argument;
- (c) If necessary, have in court a plat, diagram, or demonstrative aid of sufficient size and distinctness to be visible to the court and opposing counsel; or
- (d) In advance of oral argument make arrangements with the court for the set-up and removal of any video projection or audio playback equipment needed for presentation of trial electronic exhibits or demonstrative aids.

Advisory Committee Comment—2014 Amendments

Rule 134.07 is amended to change a reference to the appendix to refer to the addendum. The use of an appendix as it formerly existed is no longer either required or permitted in any appellate proceedings.

* * *

Rule 134.10. Audio and Video Coverage of Appellate Court Proceedings

Subdivision 1. Unless notice is waived by the Chief Justice of the Supreme Court or the Chief Judge of the Court of Appeals, notice of intent to cover appellate court proceedings by either audio or video means shall be given by the media to the Court Information Office ~~Clerk of the Appellate Courts~~ at least 24 hours prior to the time of the intended coverage.

* * *

Rule 139. Costs and Disbursements

* * *

139.05 Disallowance of Costs and Disbursements

The appellate court upon its own motion may disallow the prevailing party's costs or disbursements or both, in whole or in part, for a violation of these rules or for other good cause. The prevailing party will not be allowed to tax as a disbursement the cost of reproducing parts of the record ~~in the appendix~~ which are not relevant to the issues on appeal.

Advisory Committee Comment—2014 Amendments

Rule 139.05 is amended to change a reference to the appendix to refer to the addendum. The use of an appendix as it formerly existed is no longer either required or permitted in any appellate proceedings.

Rule 140. Petition for Rehearing in Supreme Court

* * *

140.02 Service; Filing

The petition shall be served upon the opposing party who may answer within ~~five~~ 5 days after service. Oral argument in support of the petition will not be permitted. ~~Fourteen copies of the petition, produced and sized as~~ The petition, in the format required by Rule 132.01, shall be filed with the clerk. A filing fee of \$100 shall accompany the petition for rehearing.

Advisory Committee Comment—2014 Amendments

As part of the implementation of electronic filing in the appellate courts, the courts have reviewed the number of documents needed by the courts. Under the revised rule only a single copy is required, whether the document is filed electronically or by other means authorized by the rules.

Rule 142. Dismissal; Default

* * *

142.02 Default of Appellant

The respondent may serve and file a motion for judgment of affirmance or dismissal if the appellant fails or neglects to serve and file its brief and ~~appendix~~ addendum as required by these rules. If the appellant is in default for 30 days and the respondent has not made a motion under this rule, the appellate court shall order the appeal dismissed without notice, subject to a motion to reinstate the appeal. In support of the motion, the appellant must show good cause for failure to comply with the rules governing the service and filing of briefs, that the appeal is meritorious and that reinstatement would not substantially prejudice the respondent's rights.

Advisory Committee Comment—2014 Amendments

Rule 142.02 is amended to change a reference to the appendix to refer to the addendum. The use of an appendix as it formerly existed is no longer either required or permitted in any appellate proceedings.

Rule 143. Parties; Substitution; Attorneys

* * *

143.05 Attorneys

Subdivision 1. Admission Required; Admission Pro Hac Vice. All pleadings briefs, motions, notices, and petitions filed with the appellate courts must be signed by an attorney licensed to practice in this State, or admitted pro hac vice to practice before the appellate courts. No attorney may present argument to the appellate courts unless licensed to practice in this State or admitted pro hac vice to appear before the appellate court as provided for by this rule.

An attorney licensed to practice law in Minnesota may move for the admission pro hac vice of an attorney admitted to practice law in another state or territory. The motion shall be accompanied by an affidavit of the attorney seeking pro hac vice admission attesting that he or she is a member in good standing of the bar of another state or territory.

Advisory Committee Comment—2014 Amendments

Rule 143.05 is amended to make it more explicit as to the specific documents requiring signature by an attorney. The former rule required signature for “pleadings,” a term that is not otherwise defined in the rules. “Signed” is defined in new Rule 101.02, subdivision 7, and includes provision for signing of documents filed using the appellate courts e-filing and e-service system.

Rule 144. Cases Involving Constitutional Questions Where State is Not a Party

When the constitutionality of an act of the legislature is questioned in any appellate proceeding to which the state or an officer, agency or employee of the state is not a party, the party asserting the unconstitutionality of the act shall notify-file and serve on the attorney general notice of that assertion within time to afford an opportunity to intervene. Service of this notice on the attorney general may be effected by any means authorized by these rules.

Advisory Committee Comment—2014 Amendments

The amendment to Rule 144 is intended to clarify the existing rule and to adapt it to the e-service and e-filing environment. As amended, the rule makes it clear that notice of a challenge to constitutionality should be served on all parties and the attorney general and also filed with the clerk of the appellate courts. The rule assumes that the Office of the Minnesota Attorney General will designate a means of service upon the office and consent to service using the appellate courts' e-filing and e-service system, which would be the easiest and fastest way to provide the notice required by this rule.