

**CX-89-1863  
STATE OF MINNESOTA  
IN SUPREME COURT**

**In re:**

**Supreme Court Advisory Committee  
on General Rules of Practice**

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**Recommendations of Minnesota Supreme Court  
Advisory Committee on General Rules of Practice**

**Reporter's Revised DRAFT**

**Report  
June \_\_, 2009**

**Hon. Elizabeth Anne Hayden  
Chair**

**Hon. Lorie Skjerven Gildea  
Liaison Justice**

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Reporter**

## **Introduction**

This report recommends the amendment of several rules of the Minnesota General Rules of Practice, and also provides the court a status report on its efforts on the issues relating to cameras in courtrooms.

## **Summary of Committee Recommendations**

The Committee's specific recommendations are briefly summarized as follows:

1. Form 5 should be removed from the rules and maintained as a form on the court's website.
2. Forms 11.1 and 11.2 should be removed from the rules and maintained as a form on the court's website.
3. Rule 12, adopted in 2009, should be amended to clarify that it does not require filing of pleadings earlier than heretofore required and does not override the 21-day "safe harbor" provision in Minn. R. Civ. P. 11.
4. A new Rule 13 should be adopted to require parties and counsel to provide a current address to the parties and court administrator.
5. Rule 111 should be amended to exclude consumer credit contract cases and mechanics' lien actions from the requirement for filing an information statement.
6. Rule 304.02 should be amended to include reference to the requirement for disclosure to the court of the need for interpreter services.
7. Rule 309 should be amended to permit contempt proceedings to be commenced either by motion or by order to show cause.
8. Rule 503(c) should be amended to confirm its time computation rules to mechanism in the Rules of Civil Procedure.
9. Rule 517 should be amended to modify the procedure for payment of conciliation court judgments into court.
10. Rule 518 should be amended to remove the 30-day stay requirement.

11. The forms appended to the conciliation court rules should be removed from the rules and maintained by the State Court Administrator's Office on the Court's website.
12. Rule 707 should be amended to clarify how stenographic notes and transcription of grand jury proceedings are handled.
13. Rule 14 of the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act should be amended.

### **Effective Date**

The committee believes the rule amendments in this report should not be controversial, and could probably be considered fairly and fully with a public comment period and adopted to take effect on July 1, 2009, or another date earlier than January 1, 2010.

### **Status of Cameras in Courtroom Issue**

The advisory committee is moving forward with the design of a pilot project to implement this Court's February 11, 2009, Order on the use of cameras and audio recording equipment in Minnesota courtrooms. We believe we are making adequate progress towards having a report to the Court in January 2010.\

### **Amendment of Timing Rules**

Pursuant to the May 15, 2009, Memorandum from Justice Dietzen to several advisory committees, the committee has considered the issue of whether the Minnesota rules should be amended to follow the changes made in the federal court rules regarding the calculation of time and deadlines. The committee recommends generally that the federal amendments are sensible and that there is significant advantage to having time counted by the same means in state and federal court. The

committee further recommends that if the federal timing changes are adopted, they should be adopted uniformly across all court rules, and that appropriate review of Minnesota Statutes should be conducted to identify deadlines imposed by statute that should be adjusted at the same time the rules are amended.

The committee will submit a detailed report of recommended rule changes not later than October 1, 2009, and will recommend that the effective date of the timing rule amendments should probably be not earlier than July 1, 2010, in order that the Minnesota Legislature can address any legislative issues.

### **Recommendation for Referral to Other Committees**

The committee has addressed one issue that it believes should be considered by either the advisory committee on rules of evidence or criminal rules advisory committee. The committee continued its consideration of concerns initially expressed about a Ninth Judicial District Policy requiring transcription of audio/visual recordings submitted as exhibits. (This issue was reported on in the advisory committee's September 25, 2008, Report as an issue receiving ongoing study.)

This issue relates to several local (*i.e.*, those of the Second, Fourth, Seventh, Eighth and Ninth Districts) relating to the transcription of recordings offered as evidence (and requiring the proponent of this evidence to pay for the transcription). The advisory committee believes it is appropriate to have a uniform, statewide rule on how these matters are handled. Unfortunately, the issues relate primarily to evidence in criminal cases, and the evidence, criminal, and civil appellate rules committees are probably better suited to answer the question of what form a uniform rule should take. The issue may also present concerns might benefit profitably from review by appellate lawyers or judges on the appellate rules committee.

The diversity of approaches in the existing local rules makes the case for a uniform rule. The policies of the Second, Fourth, Seventh, Eighth and Ninth Districts are duplicated as an Appendix, at 7-8. Most require disclosure of the format of the

recorded statement. *See* Second, Fourth, Eighth, and Ninth District policies. Some require transcription prior to trial and state that failure to comply “may” result in exclusion of the statement. *See* Second, Fourth, and Eighth District policies. One requires transcription at time the recorded exhibit is offered into evidence. *See* Seventh District policy. One requires transcription prior to trial when requested by the court, and at pretrial when requested by the court or an opposing party. *See* Ninth District policy. This evidence presents challenges to the court reporter when a case reaches trial, as it is quite difficult to transcribe 911 call recordings, “*Scales*” tapes, answering machine messages, child interview recordings, and similar events that are presented at trial as an audio recording. There may be significant differences between evidence presented at testimony and evidence presented in audio or audiovisual form but which is not essentially testimonial.

There is also an apparent inconsistency in the criminal rules, which can best be addressed by the criminal rules advisory committee. Minn. R. Crim. P. 11.02 and 12.04 indicate that if either party offers into evidence videotape or audiotape exhibit, they “may” also provide the court with a transcript. Minn. R. Crim. P. 28.02, subd. 9, relating to criminal appeals, provides that any videotape or audiotape exhibits submitted at trial or hearing shall, if not previously transcribed, be transcribed at the request of either the appellant or respondent unless the parties have already stipulated to the accuracy of a transcript of such exhibit previously made a part of the record. None of these rules directly answers the question of who pays for transcription. There is also lack of consistency in the rules as to when in case transcription is to be completed, and the cost of transcription provides good reason not to require transcription before the transcript is actually needed.

A related recommendation of the general rules advisory committee is that the criminal rule provisions in the Minnesota General Rules of Practice be relocated to the criminal rules and incorporated into those rules at appropriate locations. This advisory committee believes there is no good principled reason to have those criminal provisions separate from the Rules of Criminal Procedure and believes they are much

more likely to be located and adhered to if they are so relocated. The committee's reporter has raised this matter directly with the chair of the criminal rules advisory committee.

### **Recommendations Not Requiring Rule Amendments**

In addition to the recommendations for rule amendments, which are discussed in detail later in this report, the committee addressed one other subject where it concluded that no rule amendment is warranted at this time.

**Gen. R. Prac. 603.** The committee considered a suggestion that the housing court rules be amended to permit corporations to appear in district court eviction action without representation by a licensed attorney. The suggestion was made to the committee by the Minnesota Multi-Housing Association (MMHA), and was made response to *Walnut Towers v. Schwan*, A07-1311 (Minn. Ct. App. Sept. 16, 2008) (unpublished)(no PFR filed), which held that the district court erred in allowing corporation to appear without counsel. Because of the decision of this issue in *Nicollet Restoration, Inc. v. Turnham*, 475 N.W.2d 508 (Minn. Ct. App. 1991), *aff'd* 486 N.W.2d 753 (Minn. 1992), the advisory committee does not arrogate to make any recommendation on this issue.

### **Recommendations for Further Study**

The committee is undertaking two projects that will require further study by the committee.

- 1. Juror Notification.** The committee considered a suggestion that would modify the jury management rules to permit notification of prospective jurors by postcard. The statewide postage savings from the proposal is estimated at \$25,000 to \$30,000. The committee is concerned about confidentiality of the proposed communications, and is recommending to the state court administration that this issue receive further analysis.

- 2. Jury Trials in Conciliation Court Appeals.** The committee considered a suggestion that the court rules be amended to remove the right to a jury trial in matters decided first in conciliation court and then removed to district court for trial de novo. Although the committee believes there may be value in a conciliation court process to that would either decide cases without a jury in conciliation court or effect the early removal of cases to district court for a single trial there. Because this would probably require statutory amendments and would not fundamentally be a rules issue, the committee believes it should be reviewed by the Court, the Judicial Council, or the State Court Administrator for further action.
- 3. Family Court Rules.** The advisory committee is aware of an ongoing review of the family court rules being conducted by members of the American Academy of Matrimonial Lawyers, culminating in extensive discussions of these rules at its annual “Divorce Camp” in October 2009. The advisory committee’s Reporter and Staff have been invited to participate in this meeting, as have judges from each judicial district and representative district administrators. The committee has deferred consideration of several issues relating to the family court rules until the AAML process is completed.

## **Style of Report**

The specific recommendation is reprinted in traditional legislative format, with new wording underscored and deleted words ~~struck through~~. Because the advisory committee comments are entirely new for these recommendations, underscoring is omitted for the comments.

Respectfully submitted,

MINNESOTA SUPREME COURT ADVISORY  
COMMITTEE ON GENERAL RULES OF  
PRACTICE

## APPENDIX OF LOCAL POLICIES

### Second District Policy

#### AUDIO/VIDEO TRANSCRIPTS

The party intending to introduce a recorded statement (video and/or audio)\* must, at the time the rules require disclosure of the statement, advise the opposing party of the format in which the statement is reserved (video, audio) and must, prior to trial timely prepare, serve and file a verbatim transcript of the recorded statement. The proponent of the recorded statement is responsible for its accurate transcription. Failure to comply with either requirement may result in exclusion of the recorded statement at trial.

\* This order applies to, but is not limited to 911 calls, answering machine messages, Scales tapes, child interviews, crime scene walk-throughs and depositions.

### Fourth District Policy

Policy Number: D.01  
Category: Case Related Policies: All Courts  
Title: Audio and Video Taped Evidence  
Effective Date: January 1, 2001  
Revision Date(s):  
(Supersedes: Policy effective January 1, 2000

#### Audio and Video Taped Evidence

The party intending to introduce a recorded statement (video and/or audio)<sup>(1)</sup> must, at the time the rules require disclosure of the statement, advise the opposing party of the format in which the statement is preserved (video, audio) and must, prior to the trial, timely prepare, serve and file a verbatim transcript of the recorded statement. The proponent of the recorded statement is responsible for its accurate transcription. Failure to comply with either requirement may result in exclusion of the recorded statement at trial.

<sup>(1)</sup> This order applies to, but is not limited to all 911 calls, answering machine message, Scales tapes, child interviews, crime scene walk-throughs and depositions.

### Seventh District Policy

#### ADMINISTRATIVE POLICY NO. 11.5

##### *Transcript of Videotapes and Audiotapes*

Any audiotape, videotape or other prerecorded evidence or testimony, whether an exhibit, deposition, interview, statement, or otherwise, offered by a party shall be accompanied by a written transcript thereof, which transcript, upon acceptance or redaction by the parties, shall constitute the record thereof for all purposes, including appeal.

Approved: December 2, 1998  
Recodified: May 31, 2002

**Eighth District Policy**

ADMINISTRATIVE POLICY 10

Video/Audio Statements

The party intending to introduce a recorded statement must, at the time the rules require disclosure of the statement, advise the opposing party of the form in which the statement is preserved and must, prior to trial, timely prepare, serve and file a verbatim transcript of the recorded statement. The proponent of the recorded statement is responsible for its accurate transcription. Failure to comply with either requirement may result in exclusion of the recorded statement at trial.

**Ninth District Policy**

Policy Regarding Transcripts of Audio/visual Recordings

A party intending to introduce an electronically or digitally recorded statement\* must, at the time the rules require disclosure of the statement, advise the opposing party of the format (audio or video tape, CD, DVD, etc.) in which the statement is preserved, and upon the request of the court must, prior to trial, timely prepare, serve and file a verbatim transcript of the recorded statement. The proponent of the recorded statement is responsible for its accurate transcription. Failure to comply with these requirements may result in exclusion of the recorded statement at trial.

If during a pre-trial hearing a party uses or offers as evidence an audio or video recording, and other parties wish to have a transcript of that hearing to assist in the preparation of memoranda of law to be filed with the court, the party submitting the recording will have a verbatim transcript of it prepared and provided in a timely fashion to the requesting party or parties, as well as to the court. The court may also order such transcript *sua sponte*.

In the event of an appeal, the offering party must produce and file a verbatim transcript of the recorded statement within 30 days of the filing of the notice of appeal, if such transcript was not previously provided to the court.

*\*This policy applies, but is not limited, to recordings of 911 calls, answering machine messages, scale tapes, child interviews, crime scene walk-throughs and depositions.*

**Recommendation 1: Form 5 should be removed from the rules and maintained as a form on the court’s website.**

**Introduction**

Form 5, Motion for Admission Pro Hac Vice, is a form that can be maintained by the State Court Administrator’s Office and is currently available on the Court’s website. The form is not mentioned in either the rules or the advisory committee comments; it is merely appended to the rules. It is appropriate that this form simply be deleted from the rules by order of this Court.

**Specific Recommendation**

Form 5 should be deleted from the rules and maintained in the future on the court’s website.

**Recommendation 2: Forms 11.1 and 11.2 should be removed from the rules and maintained as a form on the court’s website.**

**Introduction**

Forms 11.1, Confidential Information Form, and 11.2, cover sheet designated “Sealed Financial Source Documents,” are also forms that can be maintained by the State Court Administrator’s Office and accessed through the Court’s website. Because they are specifically referenced in the rules as being appended to the rules, Rules 11.02 and 11.03 should be amended to reflect the deletion of the forms from the rules themselves.

**Specific Recommendation**

Rule 11 should be amended as follows:

1           **RULE 11. SUBMISSION OF CONFIDENTIAL INFORMATION**

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3           **Rule 11.02. Restricted Identifiers**

4           (a) Pleadings and Other Documents Submitted by a Party. No party shall  
5 submit restricted identifiers on any pleading or other document that is to be filed with  
6 the court except:

7                   (i) on a separate form entitled Confidential Information Form (see  
8                   Form 11.1 ~~appended to these rules~~ as published by the state court  
9                   administrator) filed with the pleading or other document; or

10                   (ii) on Sealed Financial Source Documents under Rule 11.03.

11 The parties are solely responsible for ensuring that restricted identifiers do not  
12 otherwise appear on the pleading or other document filed with the court. The court  
13 administrator will not review each pleading or document filed by a party for

14 compliance with this rule. The Confidential Information Form shall not be accessible  
15 to the public.

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

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24 **Rule 11.03. Sealing Financial Source Documents**

25 Financial source documents shall be submitted to the court under a cover sheet  
26 designated “Sealed Financial Source Documents” and substantially in the form set  
27 forth as Form 11.2 ~~appended to these rules~~ as published by the state court  
28 administrator. Financial source documents submitted with the required cover sheet  
29 are not accessible to the public except to the extent that they are admitted into  
30 evidence in a testimonial hearing or trial or as provided in Rule 11.05 of these rules.  
31 The cover sheet or copy of it shall be accessible to the public. Financial source  
32 documents that are not submitted with the required cover sheet and that contain  
33 restricted identifiers are accessible to the public, but the court may, upon motion or on  
34 its own initiative, order that any such financial source document be sealed.

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37 **Advisory Committee Comment—2009 Amendment**

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

42 Forms 11.1 and 11.2 should be deleted from the rules and maintained in the  
43 future on the court’s website.

**Recommendation 3: Rule 12, adopted in 2009, should be amended to clarify that it does not require filing of pleadings earlier than heretofore required and does not override the 21-day “safe harbor” provision in Minn. R. Civ. P. 11.**

### **Introduction**

This court adopted Rule 12 of the general rules by its order dated December 22, 2008. Following its adoption, the committee became aware of two situations where the rule was not intended to apply. The amendment recommended explicitly exempts those two situations from the rule. As is well known, Minnesota is one of a small number of states that allow for “hip-pocket” service—deeming actions commenced by service and not requiring filing of pleadings unless one of the parties files the action, in which case every party is required to file pleadings promptly after service. Similarly, Rule 11 of the rules of civil procedure contains a 21-day “safe harbor” provision, requiring service of a motion for sanctions but prohibiting filing of the motion for 21 days. The amendment to Rule 12 of the general rules was not intended to modify that important provision.

### **Specific Recommendation**

Rule 12 should be amended as follows:

44 **RULE 12. REQUIREMENT FOR COMPARABLE MEANS OF SERVICE**

45 In all cases, a party serving a paper on a party and filing the same paper with  
46 the court must select comparable means of service and filing so that the papers are  
47 delivered substantially contemporaneously. This rule does not apply to service of a  
48 summons or a subpoena. Pleadings and other papers need not be filed until required  
49 by Minn. R. Civ. P. 5.05 and motions for sanctions may not be filed before the time  
50 allowed by Minn. R. Civ. P. 11.03(a).

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

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**Advisory Committee Comment—2009 Amendment**

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

**Recommendation 4:**      **A new Rule 13 should be adopted to require parties and counsel to provide a current address to the parties and court administrator.**

**Introduction**

The committee considered the suggestion that court administrators be relieved of the requirement that they mail notices to a party after the administrator has received two previous mailings back as “undeliverable” by the post office. The committee believes that there is merit in this suggestion, but also believes that attorneys and parties to litigation should be put on notice of the requirement to provide a current address and the likely consequences of failure to provide it.

The rule doesn’t require Herculean efforts by court administrators to attempt to determine a current address, but does require “reasonable efforts” to obtain a valid, workable address. This requirement is intended to recognize the importance of notice from the court, and to encourage some serious effort to obtain a valid address.

**Specific Recommendation**

A new Rule 13 should be adopted as follows:

65                    **RULE 13. REQUIREMENT TO PROVIDE NOTICE OF CURRENT**  
66                    **ADDRESS**

67                    **Rule 13.01. Duty to Provide Notice**

68                    In all actions, it is the responsibility of the parties, or their counsel of record, to  
69                    provide notice to all other parties and to the court administrator of their current  
70                    address for delivery of notices, orders, and other papers in the case. Failure to provide  
71                    this notice constitutes waiver of the right to notice until a current address is provided.

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73 **Rule 13.02. Elimination of Requirement to Provide Notice to Lapsed Address**

74 In the event notices, pleadings or other papers are returned by the postal  
75 service after the court administrator’s mailing to a party or attorney’s address of  
76 record on two separate mailings, the administrator should make reasonable efforts to  
77 obtain a valid, current address. If those efforts are not successful, the administrator  
78 may omit making further mailings in that action, and shall place appropriate notice in  
79 the court file or docket indicating that notices are not being mailed to all parties.

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81 **Advisory Committee Comment—2009 Amendment**

82 Rule 13 is a new rule intended to make explicit what has heretofore been  
83 expected of parties and their counsel: to keep the court apprised of a current address  
84 for mailing notices, orders, and other papers routinely mailed by the administrator to  
85 all parties. Where the court does not have a valid address, evidenced by two  
86 returned mailings, and cannot readily determine the correct address, the rule makes  
87 it unnecessary for the administrator to continue the futile mailing of additional  
88 papers until the party or attorney provides a current address.

89 The purpose of this rule is to require meaningful notice. If a party is a  
90 participant in the Secretary of State’s address confidentiality program, there is no  
91 reason not to permit the use of that address to satisfy the requirement of this rule.  
92 See MINN. STAT. §§ 5B.01-.09 (2008).

**Recommendation 5: Rule 111 should be amended to exclude consumer credit contract cases and mechanics' lien actions from the requirement for filing an information statement.**

### **Introduction**

Rule 111 contains numerous exceptions from the scheduling requirements of the rule. The advisory committee considered suggestions that two categories of cases also be exempted from the normal case scheduling requirements, and concluded that these suggestions were well-taken. The committee therefore recommends that consumer credit contract actions and mechanics lien actions be added to the list of actions exempted from the rule.

Consumer credit contract actions are a distinct case type under Form 23 of the Minnesota Rules of Civil Procedure (see Minn. R. Civ. P. 10.01 requiring case type indicator to be included in caption of every pleading). These cases have historically generally been handled as default matters, and though they must now be filed pursuant to an agreement between the attorney general and certain health care providers, they retain their nature of being likely to be default matters. Normal case scheduling procedures for contested cases to not make sense for these cases.

Mechanics lien actions are commenced by filing and often involve numerous parties who are not served with process at the same time. The result is that these cases are often not ready for case scheduling at the same time other civil actions would be. The proposed amendment simply exempts these cases from Rule 111, recognizing that the court may then establish scheduling guidelines by order in a particular case, or can make a particular case subject to the normal Rule 111 procedures pursuant to the last sentence of Rule 111.01.

### **Specific Recommendation**

Rule 111.01 should be amended as follows:

93 **RULE 111. SCHEDULING OF CASES**

94 **Rule 111.01. Scope**

95 The purpose of this rule is to provide a uniform system for scheduling matters  
96 for disposition and trial in civil cases, excluding only the following:

97 (a) Conciliation court actions and conciliation court appeals where no jury  
98 trial is demanded;

99 (b) Family court matters governed by Minn. Gen. R. Prac. 301 through 312;

100 (c) Public assistance appeals under Minnesota Statutes, section 256.045,  
101 subdivision 7;

102 (d) Unlawful detainer actions pursuant to Minnesota Statutes, sections  
103 504B.281, et seq.;

104 (e) Implied consent proceedings pursuant to Minnesota Statutes, section  
105 169.123;

106 (f) Juvenile court proceedings;

107 (g) Civil commitment proceedings subject to the Special Rules of Procedure  
108 Governing Proceedings Under the Minnesota Commitment Act of 1982;

109 (h) Probate court proceedings;

110 (i) Periodic trust accountings pursuant to Minn. Gen. R. Prac. 417;

111 (j) Proceedings under Minnesota Statutes, section 609.748 relating to  
112 harassment restraining orders;

113 (k) Proceedings for registration of land titles pursuant to Minnesota Statutes,  
114 chapter 508;

115 (l) Election contests pursuant to Minnesota Statutes, chapter 209; ~~and~~

116 (m) Applications to compel or stay arbitration under Minnesota Statutes,  
117 chapter **572**;

118 (n) consumer credit contract actions (see Case Type 3A, Minn. R. Civ. P.  
119 Form 23); and

120 (o) mechanics' lien actions.



**Recommendation 6: Rule 304.02 should be amended to include reference to the requirement for disclosure to the court of the need for interpreter services.**

**Introduction**

As part of the amendments adopted to the general rules by order dated December 22, 2008, the Court required modification of several rules to provide for the identification of the need for interpreter services in case handling documents. The committee believes it is appropriate that that requirement be extended to the parties' informational statement filed in family court matters, and the recommended amendment to Rule 304.02 accomplishes that single purpose.

**Specific Recommendation**

Rule 304.02 should be amended as follows:

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**RULE 304. SCHEDULING OF CASES**

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**Rule 304.02. The Party's Informational Statement**

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

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

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

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

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

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

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

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(i) Whether custody is in dispute; and

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(ii) Whether the case involves any issues seriously affecting

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the welfare of the children;

- 147           (2) Whether the case involves complex evaluation issues, and/or  
148 marital and nonmarital property issues;
- 149           (3) Whether the case needs to be expedited, and if so, the specific  
150 supporting facts;
- 151           (4) Whether the case is complex, and if so, the specific supporting  
152 facts;
- 153           (5) Specific facts about the case which will affect readiness for trial;
- 154           (6) Recommended alternative dispute resolution process, the timing  
155 of the process, the identity of the neutral selected by the parties or, if the  
156 neutral has not yet been selected, the deadline for selection of the neutral. If  
157 ADR is believed to be inappropriate, a description of the reasons supporting  
158 this conclusion; ~~and~~
- 159           (7) Identification of interpreter services (specifying language and, if  
160 known, particular dialect) any party anticipates will be required for any witness  
161 or party; and
- 162           (78) A proposal for establishing any of the deadlines or dates to be  
163 included in a scheduling order pursuant to this rule.
- 164           (c) **Unrepresented Parties.** Parties not represented by a lawyer may use  
165 forms developed specially by the state court administrator for unrepresented parties.

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**Advisory Committee Comment—2009 Amendment**  
Rule 304.02 is amended to include section (b)(7) adopted to implement the  
gathering of information about the potential need for interpreter services in a case,  
either for witnesses or for a party. *See* Minn. Gen. R. Prac. 8.13.

**Recommendation 7: Rule 309 should be amended to permit contempt proceedings to be commenced either by motion or by order to show cause.**

**Introduction**

Rule 309 presently contemplates commencement of contempt proceedings only by order to show cause. Minnesota Statutes allows the court to impose contempt sanctions upon either notice or order to show cause. *See* Minn. Stat. § 588.04. Because of the increased expense involved in obtaining and serving an order to show cause, including the burden it places on the court for issuance of the order, and because an order to show cause is no longer required by statute, the committee believes Rule 309 should be amended similarly to allow contempt to be sought either by motion or order to show cause.

**Specific Recommendation**

A new Rule 309.01 should be adopted as follows:

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**RULE 309. CONTEMPT**

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**Rule 309.01. Initiation**

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**(a) Moving Papers-Service; Notice.** Contempt proceedings ~~shall~~ may be

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initiated by notice of motion or by an order to show cause served upon the person of

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the alleged contemnor together with motions accompanied by appropriate supporting

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affidavits.

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The notice of motion or order to show cause shall direct the alleged contemnor

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to appear and show cause why he or she should not be held in contempt of court and

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why the moving party should not be granted the relief requested by the motion.



**Recommendation 8: Rule 503(c) should be amended to conform its time computation rules to mechanism in the Rules of Civil Procedure.**

**Introduction**

The committee previously recommended to the Court that Rule 6.01 of the Rules of Civil Procedure be amended to reflect the Court’s holding in *Commandeur, LLC v. Howard Hartry, Inc.*, 724 N.W.2d 508 (Minn. 2006). The committee did not recommend modification of the conciliation court rules at that time. It does appear appropriate, however, that Rule 503 of the conciliation court rules be modified also to reflect this development in Minnesota law.

**Specific Recommendation**

Rule 503 should be amended as follows:

**RULE 503. COMPUTATION OF TIME**

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**(a) General.** All time periods shall be measured by starting to count on the first day after any event happens which by these rules starts the running of a time period. If the last day of the time period is anything other than a working week day, then the last day is the next working week day.

**(b) Time Periods Less Than Seven Days.** When the time period is less than seven days, only working week days shall be counted.

**(c) Working Week Day.** A “working week day” means a day which is not a Saturday, Sunday or legal holiday. For purposes of this rule, a legal holiday includes all state level judicial branch holidays established pursuant to law and any other day on which county offices in the county in which the conciliation court is held are closed pursuant to law- or court order. With respect to service or filing by U. S. Mail, a day that the United States Mail does not operate is not a “working week day.”



(a) Computing Time. The following rules apply in computing any time period specified in these rules, in any local rule or court order, or in any statute that does not specify a method of computing time.

(1) Period Stated in Days or a Longer Unit. When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(2) Period Stated in Hours. When the period is stated in hours:

(A) begin counting immediately on the occurrence of the event that triggers the period;

(B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and

(C) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(b) Inaccessibility of the Clerk's Office. Unless the court orders otherwise, if the clerk's office is inaccessible:

(1) on the last day for filing under Rule 6.01(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(2) during the last hour for filing under Rule 6.01(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(c) "Last Day" Defined. Unless a different time is set by a statute or court order, the last day ends:

(1) for electronic filing, at midnight in the court's time zone; and  
(2) for filing by other means, including by facsimile, when the clerk's office is  
scheduled to close.

(d) "Next Day" Defined. The "next day" is determined by continuing to  
count forward when the period is measured after an event and backward when  
measured before an event.

(e) "Legal Holiday" Defined. As used in ~~this rule and in Rule 77(e)~~ these  
rules, "legal holiday" includes any holiday designated in Minn. Stat. § 645.44, subd.  
5, as a holiday for the state or any state-wide branch of government and any day that  
the United States Mail does not operate.

**Recommendation 9: Rule 517 should be amended to modify the procedure for payment of conciliation court judgments into court.**

**Introduction**

The conciliation court rules presently allow the losing party in a conciliation court proceeding simply to pay the judgment into court. Although there may be circumstances where this is necessary, in many cases it would be easier for the parties and less burdensome for the court to allow payment directly to the prevailing party. The proposed amendment to Rule 517 accomplishes that result by requiring that more direct process, but retaining the payment-of-the-court option if those efforts are either unsuccessful or the prevailing party refuses to accept tendered payment.

**Specific Recommendation**

Rule 517 should be amended as follows:

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**RULE 517. PAYMENT OF JUDGMENT**

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**Rule 517. Payment of Judgment**

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A nonprevailing party must make arrangements to pay the judgment directly to the prevailing party. In the event good faith efforts to pay the judgment are not successful or the prevailing party refuses to accept tendered payment, the nonprevailing party may bring a motion to allow payment into court. Upon order of the court, the nonprevailing party may then pay all or any part of the judgment to the court administrator for benefit of the prevailing party. ~~or may pay the prevailing party directly.~~

The court administrator shall enter on the court's records any payment made to the administrator or to the prevailing party directly when satisfied that the direct payments have been made.

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**Advisory Committee Comment—2009 Amendment**

Rule 517 is amended to modify the procedure for payment of a conciliation court judgment directly to the court administrator. As amended, the rule requires that payment be made directly by the nonprevailing party to the prevailing party, and permits payment into court only if reasonable attempts to make that payment are not successful or the prevailing party will not accept payment, in which case the nonprevailing party must bring a motion to allow payment into court.

**Recommendation 10: Rule 518 should be amended to remove the thirty-day stay requirement.**

**Introduction**

The conciliation court rules currently provide for an automatic thirty-day stay following docketing of a judgment in district court and the commencement of discovery regarding the judgment. The thirty-day stay does not serve a useful purpose in court administration, and simply results in a thirty-day delay in resolution of these matters. Accordingly, the committee recommends that it be removed from Rule 518. This change also makes the rule consistent with statute. See MINN. STAT. § 491A.02, subd. 9.

**Specific Recommendations**

Rule 518 should be amended as follows:

260 **RULE 518. DOCKETING OF JUDGMENT IN DISTRICT COURT;**  
261 **ENFORCEMENT**

262 **(a) Docketing.** Except as otherwise provided in Rule 519 with respect to  
263 installment judgments, when a judgment has become finally effective as defined in  
264 Rule 515 of these rules the judgment creditor may obtain a transcript of the judgment  
265 from the court administrator on payment of the applicable statutory fee and file it in  
266 district court. Once filed in district court the judgment becomes and is enforceable as  
267 a judgment of district court, and the judgment will be docketed by the court  
268 administrator upon presentation of an affidavit of identification. No writ of execution  
269 or garnishment summons shall be issued out of conciliation court.

270 **(b) Enforcement.** Unless the parties have otherwise agreed, if a conciliation  
271 court judgment has been docketed in district court ~~for a period of at least 30 days~~ and  
272 the judgment is not satisfied, the district court shall upon request of the judgment  
273 creditor order the judgment debtor to mail to the judgment creditor information as to

274 the nature, amount, identity, and location of all the debtor's assets, liabilities, and  
275 personal earnings. The information shall be provided on a form prescribed by the  
276 Supreme Court (see form UCF-22 ~~appended to these rules~~ as published by the state  
277 court administrator), and the information shall be sufficiently detailed to enable the  
278 judgment creditor to obtain satisfaction of the judgment by way of execution on  
279 nonexempt assets and earnings of the judgment debtor. The order shall contain a  
280 notice that failure to complete the form and mail it to the judgment creditor within ten  
281 days after service of the order may result in a citation for civil contempt of court.  
282 Cash bail posted as a result of being cited for civil contempt of court order under this  
283 rule may be ordered payable to the creditor to satisfy the judgment, either partially or  
284 fully.

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**Advisory Committee Comment—2009 Amendment**

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Rule 518 is amended to modify the procedure for payment of a conciliation  
court judgment directly to the court administrator. As amended, the rule requires  
that payment be made directly by the nonprevailing party to the prevailing party, and  
permits payment into court

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**Recommendation 11:** The forms appended to the conciliation court rules should be removed from the rules and maintained by the State Court Administrator’s Office on the Court’s website.

**Introduction**

The committee believes the conciliation court forms are particularly suitable for removal from the rules and maintenance by the State Court Administrator on the Court’s website. These forms are particularly prone to amendment and improvement, and will function best on that site. Removal of the forms requires amendment of several of the conciliation court rules merely to modify how the forms are referred to in the rules.

**Specific Recommendations**

Rules 507, 508, and 518 should be amended as set forth below; and Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 should be deleted from the rules:

1. Rule 507 should be amended as follows:

293 **RULE 507. STATEMENT OF CLAIM AND COUNTERCLAIM;**  
294 **CONTENTS; VERIFICATION**

295 \* \* \*

296 (b) Uniform Statement of Claim or Counterclaim; Acceptance by Court. A  
297 statement of claim or counterclaim in the uniform form ~~prescribed in the appendix to~~  
298 ~~these rules~~ as published by the state court administrator shall be accepted by any  
299 conciliation court administrator when properly completed and filed with the  
300 applicable fees, if any.

2. Rule 508 should be amended as follows:

301 **RULE 508. SUMMONS; TRIAL DATE**

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(e) Proof of Service. Service by first class mail or certified mail shall be proven by an affidavit of service in form substantially similar to that ~~contained in Form 508.1~~ as published by the state court administrator. Service may be alternatively proven, when made by the court administrator, by any appropriate notation in the court record of the date, time, method, and address used by the administrator to effect service.

3. Rule 518 should be amended as set forth on page     , above.

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The following forms should be deleted from the Rules and then be maintained by State Court Administration.

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1. Form UCF-8 Statement of Claim and Summons
2. Form UCF-9 Judgment and Notice of Judgment
3. Form UCF-10 Defendant's Counterclaim
4. Form UCF-22 Financial Disclosure Form
5. Form 508.1 Conciliation Court Affidavit of Service

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**Advisory Committee Comment—2009 Amendment**

Rules 507, 508, and 518 11 are amended to remove Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 from the rules and to correct the reference to the forms in the rule. This amendment will allow for the maintenance and publication of the form by the state court administrator. The form, together with other court forms, can be found at <http://www.mncourts.gov/>.

Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 should be deleted from the rules and maintained in the future on the court's website.

**Recommendation 12: Rule 707 should be amended to clarify how stenographic notes and transcription of grand jury proceedings are handled.**

**Introduction**

Rule 707 deals with transcription of several criminal proceedings, but omits explicit reference to grand jury proceedings. Rule 18 of the Minnesota Rules of Criminal Procedure also addresses the right of access to grand jury transcripts. The committee believes it appropriate to amend Rule 707 to deal with some of the mechanical aspects of transcription of grand jury proceedings consistent with how those subjects are addressed for other phases of criminal proceedings currently addressed in Rule 707.

**Specific Recommendation**

Rule 707 should be amended as follows:

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**RULE 707. TRANSCRIPTION OF PLEAS, SENTENCES,  
AND REVOCATION OF HEARINGS IN FELONY,  
GROSS MISDEMEANOR, AND EXTENDED JUVENILE  
JURISDICTION PROCEEDINGS,  
AND GRAND JURY PROCEEDINGS**

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The following provisions relate to all pleas, sentences, and revocation hearings in all felony, gross misdemeanor, and extended juvenile jurisdiction proceedings, and all grand jury proceedings. Grand jury proceedings are secret as provided in Rule 18 of the Minnesota Rules of Criminal Procedure and this rule must be construed to maintain secrecy in accordance with that rule.

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(a) Court reporters and operators of electronic recording equipment shall file the stenographic notes or tape recordings of guilty plea or sentencing hearings with the court administrator within 90 days of sentencing, and the stenographic notes or tape recordings of grand jury proceedings shall be filed with the court administrator

338 and maintained in a non-public portion of the file at the conclusion of grand jury  
339 hearings. The reporter or operator may retrieve the notes or recordings if necessary.  
340 Minn. Stat. § 486.03 (2002) is superceded to the extent that it conflicts with this  
341 procedure.

342 (b) All original grand jury transcripts shall be filed within 60 days of request  
343 by the court or prosecutor or receipt of an order from the appropriate court directing  
344 transcription and shall be made available to parties other than the court or prosecutor  
345 only in accordance with that a court order. The court administrator must file and  
346 maintain all grand jury transcripts in a non-public portion of the file. The court may  
347 allow extension of this 60-day deadline upon a showing of good cause.

348 (bc) No charge may be assessed for preparation of a transcript for the district  
349 court's own use; any other person ~~may ordering~~ a transcript as allowed under the  
350 rules shall be at the expense of that person. Transcripts ordered by the defendant or  
351 defense counsel shall be prepaid except when the defendant is represented by the  
352 public defender or assigned counsel, or when the defendant makes a sufficient  
353 affidavit of an inability to pay and the court orders that the defendant be supplied with  
354 the transcript at the expense of the appropriate governmental unit.

355 (d) If no district court file exists with respect to a grand jury proceeding, the  
356 administrator shall open a grand jury file upon the request of the prosecutor.

357 (ee) The maximum rate charged for the transcription of any proceeding shall  
358 be established, until July 1, 2005, by the Conference of Chief Judges, and thereafter  
359 by the Judicial Council. Minn. Stat. § 486.06 (2002) is superceded to the extent that it  
360 conflicts with this procedure.

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**Advisory Committee Comment—2009 Amendment**

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Grand jury proceedings in Minnesota are secret. See Minn. R. Crim. P. 18.08.

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The court and prosecutors may obtain access to grand jury records and may order a

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transcript; any other transcription may occur only pursuant to Minn. R. Crim. P.

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1805, subd. 1. Rule 707 is amended to provide the rules for filing and maintaining

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transcripts of grand jury proceedings in the limited circumstances where the

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transcription is permitted or ordered. The court may also enter a protective order to

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prohibit further disclosure of the grand jury transcript. Minn. R. Crim. P. 18.05,

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subd. 2.

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Rule 707(d) recognizes that there are circumstances where a grand jury is not separately convened for a particular case, and there is no separate file for that grand jury. This subdivision allows the prosecutor to request that a file be opened to serve as the repository for notes, records, or transcript from that proceeding.

**Recommendation 13: Rule 14 of the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act should be amended.**

**Introduction**

The advisory committee recommended in 2008 that Rule 14 of the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act be amended as part of the more extensive amendments implementing administrative procedures for use of interactive television (ITV). That amendment changed the notice requirement in Commitment Act Rule 14 from 24 hours to 7 days for all requests to appear by electronic means. The intent was only to recognize that setting up an ITV proceeding can take longer than that, whereas a telephone appearance, also authorized by Commitment Act Rule 14, does not. County attorneys who participate in such matters requested that the advisory committee reconsider the deadline and return it to 24 hours in all cases as the shorter notice period has not proven problematic. The advisory committee believes that it is appropriate to restore the 24-hour notice requirement in the rule.

**Specific Recommendation**

Rule 14 of the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act should be amended as follows:

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**SPECIAL RULES OF PROCEDURE GOVERNING PROCEEDINGS UNDER  
THE MINNESOTA COMMITMENT AND TREATMENT ACT**

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**RULE 14. LOCATION OF HEARING, RULES OF DECORUM,  
ALTERNATIVE METHODS OF PRESENTING EVIDENCE**

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380           The judge or judicial officer shall assure the decorum and orderliness of any  
381 hearing held pursuant to Minn. Stat. ch. 253B. The judge or judicial officer shall  
382 afford to respondent an opportunity to be dressed in conformity with the dignity of  
383 court appearances.

384           A hearing may be conducted or an attorney for a party, a party, or a witness  
385 may appear by telephone, audiovisual, or other electronic means if the party intending  
386 to use electronic means notifies the other party or parties at least ~~seven days~~ 24 hours  
387 in advance of the hearing and the court approves. If a witness will be testifying  
388 electronically, the notice must include the name, address, and telephone number  
389 where the witness may be reached in advance of the hearing. This rule does not  
390 supersede Minn. Stat. §§ 595.02 – 595.08 (competency and privilege). Respondent’s  
391 counsel will be physically present with the patient. The court shall insure that the  
392 respondent has adequate opportunity to speak privately with counsel, including, where  
393 appropriate, suspension of the audio recording or allowing counsel to leave the  
394 conference table to communicate with the client in private.

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**Advisory Committee Comment—2009 Amendment**

Rule 14 is amended to change the amount of notice required to be given by a litigant desiring to have a matter heard by electronic means, typically either telephone or interactive television. The 24 hours required by the rule represents the bare minimum of what may be necessary to allow for necessary electronic equipment to be made available. This deadline can be adjusted by the court if necessary.



31 proceeding may be stayed for such period after the denial of the motion or the furnishing of  
32 the required security as the court shall determine.

33 \* \* \*

34 **TITLE II. RULES GOVERNING CIVIL ACTIONS**

35 **PART A. PLEADINGS, PARTIES, AND LAWYERS TITLE II PART A**

36 \* \* \*

37 **RULE 107. PROCEDURE FOR CHALLENGE FOR HAVING A**  
38 **REFEREE HEAR A MATTER**

39 Any party objecting to having any referee hear a contested trial, hearing, motion or  
40 petition shall serve and file the objection within ~~ten~~<sup>14</sup> days of notice of the assignment of a  
41 referee to hear any aspect of the case, but not later than the commencement of any hearing  
42 before a referee.

43 **RULE 108. GUARDIAN AD LITEM**

44 **Rule 108.01 Role of Guardian**

45 Whenever the court appoints a guardian ad litem, the guardian ad litem shall be  
46 furnished copies of all pleadings, documents and reports by the party or agency which served  
47 or submitted them. A party or agency submitting, providing or serving reports and  
48 documents to or on a party or the court, shall provide copies promptly thereafter to the  
49 guardian ad litem.

50 Upon motion, the court may extend the guardian ad litem's powers as it deems  
51 necessary. Except upon a showing of exigent circumstances, the guardian ad litem shall  
52 submit any recommendations, in writing, to the parties and to the court at least ~~40~~<sup>14</sup> days  
53 prior to any hearing at which such recommendations shall be made. For purposes of all oral  
54 communications between a guardian ad litem and the court, the guardian ad litem shall be  
55 treated as a party.

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57 **RULE 113. ASSIGNMENT OF CASE(S) TO SINGLE JUDGE**

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59 **113.03 Assignment of Cases in More than One District to a Single Judge**

60 (a) **Assignment by Chief Justice.** When two or more cases pending in more than  
61 one judicial district involve one or more common questions of fact or are otherwise related

62 cases in which there is a special need for or desirability of central or coordinated judicial  
63 management, a motion by a party or a court's request for assignment of the cases to a single  
64 judge may be made to the chief justice of the supreme court.

65 **(b) Procedure.** The motion shall identify by court, case title, case number, and judge  
66 assigned, if any, each case for which assignment to a single judge is requested. The motion  
67 shall also indicate the extent to which the movant anticipates that additional related cases may  
68 be filed. An original and two copies of the motion shall be filed with the clerk of appellate  
69 courts. A copy of the motion shall be served on other counsel and any unrepresented parties in  
70 all cases for which assignment is requested and the chief judge of each district in which such an  
71 action is pending. Any party may file and serve a response within 57 days after service of the  
72 motion. Any reply shall be filed and served within 27 days of service of the response. Except  
73 as otherwise provided in this rule, the motion and any response shall comply with the  
74 requirements of Minn. R. Civ. App. P. 127 and 132.02.

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## 76 **RULE 114. ALTERNATIVE DISPUTE RESOLUTION**

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### 78 **Rule 114.05 Selection of Neutral**

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80 **(c) Removal.** Any party or the party's attorney may file with the court administrator  
81 within ~~40~~14 days of notice of the appointment of the neutral and serve on the opposing party  
82 a notice to remove. Upon receipt of the notice to remove the court administrator shall  
83 immediately assign another neutral. After a party has once disqualified a neutral as a matter  
84 of right, a substitute neutral may be disqualified by the party only by making an affirmative  
85 showing of prejudice to the chief judge or his or her designee.

### 86 **Rule 114.09 Arbitration Proceedings**

87 \* \* \*

#### 88 **(b) Evidence.**

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

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

95 (i) Documents. If copies have been delivered to all other parties at  
96 least ~~40~~14 days prior to the hearing, the arbitrator may consider written medical and  
97 hospital reports, records, and bills; documentary evidence of loss of income, property  
98 damage, repair bills or estimates; and police reports concerning an accident which  
99 gave rise to the case. Any other party may subpoena as a witness the author of a  
100 report, bill, or estimate, and examine that person as if under cross-examination. Any  
101 repair estimate offered as an exhibit, as well as copies delivered to other parties, shall  
102 be accompanied by a statement indicating whether or not the property was repaired.  
103 If the property was repaired, the statement must indicate whether the estimated  
104 repairs were made in full or in part and must be accompanied by a copy of the  
105 receipted bill showing the items repaired and the amount paid. The arbitrator shall  
106 not consider any police report opinion as to ultimate fault. In family law matters, the  
107 arbitrator may consider property valuations, business valuations, custody reports and  
108 similar documents.

109 (ii) Other Reports. The written statement of any other witness,  
110 including written reports of expert witnesses not enumerated above and statements of  
111 opinion which the witness would be qualified to express if testifying in person, shall  
112 be received in evidence if: (1) copies have been delivered to all other parties at least  
113 ~~40~~14 days prior to the hearing; and (2) no other party has delivered to the proponent  
114 of the evidence a written demand at least 57 days before the hearing that the witness  
115 be produced in person to testify at the hearing. The arbitrator shall disregard any  
116 portion of a statement received pursuant to the rule that would be inadmissible if the  
117 witness were testifying in person, but the inclusion of inadmissible matter does not  
118 render the entire statement inadmissible.

119 (iii) Depositions. Subject to objections, the deposition of any witness  
120 shall be received in evidence, even if the deponent is not unavailable as a witness and  
121 if no exceptional circumstance exist, if: (1) the deposition was taken in the manner  
122 provided for by law or by stipulation of the parties; and (2) fewer than ~~40~~14 days

123 prior to the hearing, the proponent of the deposition serves on all other parties notice  
124 of the intention to offer the deposition in evidence.

125 \* \* \*

126 **(e) The Award**

127 (1) No later than ~~40~~14 days from the date of the arbitration hearing or the  
128 arbitrator's receipt of the final post-hearing memorandum, whichever is later, the arbitrator  
129 shall file with the court the decision, together with proof of service by first class mail on all  
130 parties.

131 (2) If no party has filed a request for a trial within 20~~21~~ days after the award  
132 is filed, the court administrator shall enter the decision as a judgment and shall promptly mail  
133 notice of entry of judgment to the parties. The judgment shall have the same force and effect  
134 as, and is subject to all provisions of law relating to, a judgment in a civil action or  
135 proceeding, except that it is not subject to appeal, and may not be attacked or set aside. The  
136 judgment may be enforced as if it had been rendered by the court in which it is entered.

137 \* \* \*

138 **(f) Trial after Arbitration**

139 (1) Within 20~~21~~ days after the arbitrator files the decision with the court, any  
140 party may request a trial by filing a request for trial with the court, along with proof of  
141 service upon all other parties. This 20~~21~~-day period shall not be extended.

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

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

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

148 **RULE 114 – APPENDIX**

149 \* \* \*

150 **CODE OF ETHICS ENFORCEMENT PROCEDURE**

151 \* \* \*

152 **Rule II. Procedure**

153 \* \* \*

154           **D.** If the allegation(s) of the complaint, if true, constitute a violation of the Code of  
155 Ethics, the Board will undertake such review, investigation, and action it deems appropriate.  
156 In all such cases, the Board shall send to the neutral, by certified mail, a copy of the  
157 complaint, a list identifying the ethical rules which may have been violated, and a request for  
158 a written response to the allegations and to any specific questions posed by the Board. It  
159 shall not be considered a violation of Rule 114.08(e) of the Minnesota General Rules of  
160 Practice or of Rule IV of the Code of Ethics, Rule 114 Appendix, for the neutral to disclose  
161 notes, records, or recollections of the ADR process complained of as part of the complaint  
162 procedure. Except for good cause shown, if the neutral fails to respond to the complaint in  
163 writing within ~~thirty (30)~~28 days, the allegations(s) shall be deemed admitted.

164 \* \* \*

165           **G.** The neutral shall be entitled to appeal the proposed sanctions and findings of the  
166 Board to the ADR Ethics Panel by written request within ~~fourteen~~14 days from receipt of the  
167 Board's action on the complaint. The Panel shall be appointed by the Judicial Council and  
168 shall be composed of two sitting or retired district court judges and one qualified neutral in  
169 good standing on the Rule 114 roster. Members of the Panel shall serve for a period to be  
170 determined by the Judicial Council. One member of the Panel shall be designated as the  
171 presiding member.

172           **(1) Discovery.** Within ~~30~~28 days after receipt of a request for an appeal  
173 hearing, counsel for the Board and the neutral shall exchange the names and addresses of all  
174 persons known to have knowledge of the relevant facts. The presiding member of the Panel  
175 shall set a date for the exchange of the names and addresses of all witnesses the parties intend  
176 to call at the hearing. The Panel may issue subpoenas for the attendance of witnesses and  
177 production of documents or other evidentiary material. Counsel for the Board and the neutral  
178 shall exchange non-privileged evidence relevant to the alleged ethical violation(s),  
179 documents to be presented at the hearing, witness statements and summaries of interviews  
180 with witnesses who will be called at the hearing. Both the Board and the neutral have a  
181 continuing duty to supplement information required to be exchanged under this rule. All  
182 discovery must be completed within 10 days of the scheduled appeal hearing.

183           **(2) Procedure.** The neutral has the right to be represented by an attorney at  
184 all parts of the proceedings. In the hearing, all testimony shall be under oath. The Panel

185 shall receive such evidence as the Panel deems necessary to understand and determine the  
186 issues. The Minnesota Rules of Evidence shall apply, however, relevancy shall be liberally  
187 construed in favor of admission. Counsel for the Board shall present the matter to the Panel.  
188 The Board has the burden of proving the facts justifying action by clear and convincing  
189 evidence. The neutral shall be permitted to adduce evidence and produce and cross-examine  
190 witnesses, subject to the Minnesota Rules of evidence. Every formal hearing conducted  
191 under this rule shall be recorded electronically by staff for the Panel. The Panel shall  
192 deliberate upon the close of evidence and shall present written Findings and Memorandum  
193 with regard to any ethical violations and sanction resulting there from. The panel shall serve  
194 and file the written decision on the Board, neutral and complainant within ~~forty-five~~45 days  
195 of the hearing. The decision of the Panel is final.

196 \* \* \*

## 197 **PART C. MOTIONS**

### 198 **RULE 115. MOTION PRACTICE**

199 \* \* \*

#### 200 **Rule 115.03 Dispositive Motions.**

201 (a) No motion shall be heard until the moving party pays any required motion filing  
202 fee, serves a copy of the following documents on opposing counsel and files the original with  
203 the court administrator at least 28 days prior to the hearing:

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

208 (b) The party responding to the motion shall serve a copy of the following documents  
209 on opposing counsel and shall file the originals with the Court Administrator at least 9~~14~~  
210 days prior to the hearing:

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

213 (c) **Reply Memoranda.** The moving party may submit a reply memorandum,  
214 limited to new legal or factual matters raised by an opposing party's response to a motion, by

215 serving a copy on opposing counsel and filing the original with the court administrator at  
216 least 37 days before the hearing.

217 \* \* \*

218 **Rule 115.04 Nondispositive Motions.**

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

222 (1) Notice of motion and motion;

223 (2) Proposed order;

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

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

227 (b) The party responding to the motion shall serve a copy of the following  
228 documents on the moving party and other interested parties and shall file the original with the  
229 court administrator at least 7 days prior to the hearing:

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

231 (2) Any relevant affidavits and exhibits.

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

236 \* \* \*

237 **PART D. MISCELLANEOUS MOTION PRACTICE**

238 \* \* \*

239 **RULE 119. APPLICATIONS FOR ATTORNEY FEES**

240 \* \* \*

241 **Rule 119.05 Attorneys' Fees in Default Proceedings**

242 (a) A party proceeding by default and seeking an award of attorney fees that has  
243 established a basis for the award under applicable law, including parties seeking to enforce a  
244 confession of judgment, may obtain approval of the fees administratively without a motion  
245 hearing, provided that:

246 (1) the fees requested do not exceed fifteen percent (15%) of the principal  
247 balance owing as requested in that party’s pleadings, up to a maximum of \$3,000.00. Such a  
248 party may seek a minimum of \$250.00; and

249 (2) the requesting party’s pleading includes a claim for attorneys’ fees in an  
250 amount greater than or equal to the amount sought upon default; and

251 (3) the defaulting party, after default has occurred, has been provided notice  
252 of the right to request a hearing under section (c) of this rule, a form for making such a  
253 request substantially similar to Form 119.05, as published by the state court administrator,  
254 and the affidavit required under Rule 119.02.

255 (b) A party may request a formal hearing and seek fees in excess of the amount  
256 described herein if that party provides the court with evidence relevant to the amount of  
257 attorneys’ fees requested as established by the factors a court considers when determining the  
258 reasonableness of the attorneys’ fees.

259 (c) A defaulting party may request a hearing and further judicial review of the  
260 attorneys’ fees requested by completing a “Request for Hearing” provided by the plaintiff  
261 substantially similar to Form 119.05 as published by the state court administrator. A party  
262 may serve the form, at any time after a default has occurred, provided that the defaulting  
263 party is given at least ~~twenty (20)~~21 days notice before the request for judgment is made. A  
264 defaulting party must serve the Request for Hearing upon the requesting party or its counsel  
265 within ~~twenty (20)~~21 days of its receipt. Upon timely receipt of a Request for Hearing the  
266 party seeking fees shall request a judicial assignment and have the hearing scheduled.

267 (d) Rule 119.05 does not apply to contested cases, ancillary proceedings (*e.g.*,  
268 motions to compel or show cause) or proceedings subsequent to the entry of judgment.

## 269 **PART E. TRIAL MANAGEMENT**

### 270 **RULE 122. CONTINUANCE**

271 If a trial setting has been established by scheduling order after hearing the parties, the  
272 court shall decline to consider requests for continuance except those made by motion or when  
273 a judge determines that an emergency exists. A single request for a reasonable continuance  
274 of a trial setting set by notice without hearing should be granted by the court upon agreement  
275 of all parties, provided that the request is made within 2021 days after notice of the setting to

276 the parties. All other requests for continuance shall be made by motion with notice to all  
277 parties.

278 **RULE 125. AUTOMATIC STAY**

279 The court administrator shall stay entry of judgment for ~~thirty~~28 days after the court  
280 orders judgment following a trial unless the court orders otherwise. Upon expiration of the  
281 stay, the court administrator shall promptly enter judgment.

282 **RULE 126. JUDGMENT—ENTRY BY ADVERSE PARTY**

283 When a party is entitled to have judgment entered in that party’s favor upon the  
284 verdict of a jury, report of a referee, or decision or finding of the court, and neglects to enter  
285 the same for ~~10~~14 days after the rendition of the verdict or notice of the filing of the report,  
286 decision or finding; or after the expiration a stay, the opposite party may cause judgment to  
287 be entered on ~~five~~7 days’ notice to the party entitled thereto.

288 \* \* \*

289 **RULE 128. RETRIEVAL OR DESTRUCTION OF EXHIBITS**

290 It shall be the duty of the lawyer or party offering exhibits in evidence to remove all  
291 exhibits from the custody of the court upon final disposition of a case. Failure to do so  
292 within ~~15~~14 days of being notified to do so will be deemed authorization to destroy such  
293 exhibits.

294 **RULE 131. USE OF INTERACTIVE VIDEO TELECONFERENCE**  
295 **IN CIVIL CASES**

296 \* \* \*

297 **Rule 131.02. Permissible Uses; Initiation.**

298 In all civil actions and proceedings including commitment proceedings subject to the  
299 Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and  
300 Treatment Act, the court may conduct hearings and admit oral testimony, subject to cross-  
301 examination, by live audio-visual means, where authorized by this rule.

302 \* \* \*

303 **(d) Use of ITV Upon Motion.**

304 **(1) Request.** Any party may, by motion, request the use of ITV for a  
305 hearing or proceeding in accordance with this rule. No motion for use of ITV shall be heard  
306 until the moving party serves a copy of the motion on the opposing counsel and files the

307 original with the court administrator at least ~~seven (7)~~7 days prior to the scheduled hearing or  
308 proceeding for which ITV use is requested. The moving party may, ex parte, contact the  
309 court for an expedited hearing date on the motion for use of ITV and for waiver of the usual  
310 notice of hearing. The moving party is responsible under Rule 131.02(c) for making  
311 arrangements to use any site that is outside the control of the court in the venue county, for  
312 providing the necessary contact information to the court administrator, and for ensuring the  
313 compatibility of the equipment. The motion shall include, as an attachment, a notice  
314 advising the other parties of their right to object to use of ITV, the consequences of failing to  
315 timely file an objection, the duty to exchange information under Rule 131.04, and the  
316 prohibition on recording in Rule 131.06(i). A sample notice is published by the state court  
317 administrator.

318

319

## **RULE 141. CONDEMNATION**

320

### **Rule 141.01. Objection to Commissioner**

321

322 Within ~~ten (10)~~14 days after the order appointing the commissioners has been filed,  
323 the petitioner or any respondent may serve on all other parties and file with the appointing  
324 judge an affidavit objecting to the appointment of any one or more of the commissioners and  
325 setting forth the reasons for the objection. Within ~~five (5)~~7 days after receiving such an  
326 objection, the judge in the exercise of discretion may appoint a new commissioner to replace  
327 any commissioner concerning whom objection has been made. If the judge does not appoint  
328 a new commissioner within ~~five (5)~~7 days, the objection shall be deemed overruled.

329

330 \* \* \*

331

## **TITLE III. REGISTRATION OF LAND TITLES**

332

\* \* \*

333

### **RULE 208. HEARINGS IN DEFAULT CASES—FILING PAPERS**

334

335 Initial applications, where no issue has been joined, shall be heard by the court at any  
336 special term, or they may be heard by an examiner, to whom the matter has been specially  
337 referred. In counties where the examiner checks the proceedings in advance of the hearings,  
all papers necessary to complete the files shall be filed; and all documentary evidence

338 proposed to be used by the applicant or petitioner shall be delivered to the examiner at least  
339 ~~three~~7 days before the hearing, together with the proposed order for judgment and decree.

340

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

342 Includes amendments effective January 1, 2008

343

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

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

346 \* \* \*

347 **Rule 302.02. Continuances**

348 Minn. Gen. R. Prac. 122 shall be followed in connection with continuances for  
349 pre-hearings and trial settings. No continuance of a motion shall be granted unless requested  
350 within ~~3~~7 days of receiving notice under Rule 303.01(a) and unless good cause is shown.

351 \* \* \*

352 **RULE 303. MOTIONS; EX PARTE RELIEF; ORDERS TO SHOW CAUSE;**

353 **ORDERS AND DECREES**

354 **Rule 303.01. Scheduling of Motions**

355 **(a) Notice.**

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

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

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

368 All responsive pleadings shall be served and mailed to or filed  
369 with the court administrator no later than ~~five~~7 days prior to the

370 scheduled hearing. The court may, in its discretion, disregard  
371 any responsive pleadings served or filed with the court  
372 administrator less than ~~five~~7 days prior to such hearing in  
373 ruling on the motion or matter in question.

374 \* \* \*

375 **Rule 303.03. Motion Practice**

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

377 (1) *Moving Party, supporting documents, time limits.* No motion shall be  
378 heard unless the initial moving party pays any required motion filing fee, serves a copy of the  
379 following documents on opposing counsel and files the original with the court administrator  
380 at least ~~14~~21 days prior to the hearing:

381 (i) Notice of motion in form required by Minn. Gen. R. Prac.  
382 303.01(a);

383 (ii) Motion;

384 (iii) Any relevant affidavits and exhibits; and

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

386 (2) *Motion Raising New Issues.* A responding party raising new issues  
387 other than those raised in the initial motion shall pay any required motion filing fee, serve a  
388 copy of the following documents on opposing counsel and file the original with the court  
389 administrator at least ~~10~~14 days prior to the hearing:

390 (i) Notice of motion in form required by Minn. Gen. R. Prac.  
391 303.01(a);

392 (ii) Motion;

393 (iii) Any relevant affidavits and exhibits; and

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

395 (3) *Responding party, supporting documents, time limits.* The party  
396 responding to issues raised in the initial motion, or the party responding to a motion which  
397 raises new issues, shall pay any required motion filing fee, serve a copy of the following  
398 documents on opposing counsel and file the original with the court administrator at least ~~five~~  
399 7 days prior to the hearing, inclusive of Saturdays, Sundays, and holidays:

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

401 (ii) Any relevant affidavits and exhibits.

402 \* \* \*

403 **RULE 305. PREHEARING CONFERENCES**

404 **Rule 305.01. Prehearing Statement**

405 Each party shall complete a prehearing conference statement substantially in the form  
406 developed by the state court administrator which shall be served upon all parties and mailed  
407 to or filed with the court at least ~~10~~14 days prior to the date of the prehearing conference.

408 \* \* \*

409 **RULE 306. DEFAULT**

410 **Rule 306.01. Scheduling of Final Hearing**

411 Except when proceeding under Rule 302.01(b) by Joint Petition, Agreement and  
412 Judgment and Decree, to place a matter on the default calendar for final hearing or for  
413 approval without hearing pursuant to Minnesota Statutes, section 518.13, subdivision 5, the  
414 moving party shall submit a default scheduling request substantially in the form developed  
415 by the state court administrator and shall comply with the following, as applicable:

416 **(a) Without Stipulation-No Appearance.** In all default proceedings where a  
417 stipulation has not been filed, an affidavit of default and of nonmilitary status of the  
418 defaulting party or a waiver by that party of any rights under the Servicemembers Civil  
419 Relief Act, as amended, shall be filed with the court.

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

425 You are hereby notified that an application has been made for a  
426 final hearing to be held on \_\_\_\_\_, 20\_\_, at \_\_:\_\_\_  
427 \_\_.m. at \_\_\_\_\_ [a date not sooner than ~~fourteen~~  
428 ~~(14)~~14 days from the date of this notice]. You are further  
429 notified that the court will be requested to grant the relief  
430 requested in the petition at the hearing. You should contact the  
431 undersigned and the District Court Administrator immediately  
432 if you have any defense to assert to this default judgment and  
433 decree.

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

436 If the case is to proceed administratively without a hearing under Minn. Stat.  
437 § 518.13, subdivision 5, then the notice shall be sent after the expiration of the 30-day answer  
438 period, but at least ~~fourteen (14)~~14 days before submission of a default scheduling request as  
439 required by this rule, and shall state:

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

448 \* \* \*

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

### 450 **Rule 312.01. Notice of Assignment to Judge; Parties' Submissions**

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

- 453 (a) of the name of the judge to whom the review has been assigned;  
454 (b) that the moving party shall have ~~10~~14 days from the date of mailing the notice  
455 of assignment in which to file and serve a memorandum; and  
456 (c) that the responding party(s) shall have ~~20~~21 days from the date of mailing the  
457 notice of assignment within which to file and serve a responsive memorandum.

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

462 The review shall be based on the record before the referee and additional evidence  
463 will not be considered, except for compelling circumstances constituting good cause.

464 \* \* \*

## 465 **PART B. EXPEDITED CHILD SUPPORT PROCESS**

466 \* \* \*

### 467 **RULE 354. COMPUTATION OF TIME**

#### 468 **Rule 354.01. Generally**

469 All time periods shall be measured by starting to count on the first day after any event  
470 happens which by these rules starts the running of a time period. When the last day of the  
471 time period is any day other than a business day, then the last day is the next business day.

472 **Rule 354.02. Time Periods Less Than Seven Days**

473 ~~When any prescribed time period is less than seven (7) days, only business days shall~~  
474 ~~be counted.~~

475 **Rule 354.03. “Business Day” Defined**

476 A “business day” means any day that is not a Saturday, Sunday, or legal holiday. As  
477 used in these rules, “legal holiday” means New Year’s Day, Martin Luther King’s Birthday,  
478 Washington’s and Lincoln’s Birthday (Presidents’ Day), Memorial Day, Independence Day,  
479 Labor Day, Veteran’s Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas  
480 Day, and any other day designated as a holiday by the President or Congress of the United  
481 States, by the State, or by a county.

482 \* \* \*

483 **RULE 355. METHODS OF SERVICE**

484 \* \* \*

485 **Rule 355.02. Types of Service**

486 **Subdivision 1. Personal Service.**

487 \* \* \*

488 **(c) Alternative Personal Service.**

489 **(1) Acknowledgement by Mail.** As an alternative to personal service,  
490 service may be made by U.S. mail if acknowledged in writing. Any party attempting  
491 alternative-personal service shall include two copies of a notice and acknowledgment of  
492 service by mail conforming substantially to Form 22 set forth in the Minnesota Rules of Civil  
493 Procedure, along with a return envelope, postage prepaid, addressed to the sender. Any  
494 person served by U.S. mail who receives a notice and acknowledgement form shall complete  
495 the acknowledgment part of the form and return one copy of the completed form to the  
496 serving party. If the serving party does not receive the acknowledgment form within ~~twenty~~  
497 ~~(20)~~21 days, service is not valid upon that party. The serving party may then serve the  
498 summons and complaint by any means authorized under this subdivision. The child support  
499 magistrate may order the costs of personal service to be paid by the person served, if such

500 person does not complete and return the notice and acknowledgment form within ~~twenty~~  
501 ~~(20)~~21 days.

502 \* \* \*

### 503 **RULE 359. TELEPHONE AND INTERACTIVE VIDEO**

#### 504 **Rule 359.01. Telephone and Interactive Video Permitted**

505 A child support magistrate may on the magistrate's own initiative conduct a hearing  
506 by telephone or, where available, interactive video. Any party may make a written or oral  
507 request to the court administrator or the court administrator's designee to appear at a  
508 scheduled hearing by telephone or, where available, interactive video. In the event the  
509 request is for interactive video, the request shall be made at least ~~five (5)~~7 days before the  
510 date of the scheduled hearing. A child support magistrate may deny any request to appear at  
511 a hearing by telephone or interactive video.

512 \* \* \*

### 513 **RULE 360. INTERVENTION**

514 \* \* \*

#### 515 **Rule 360.02. Other Individuals**

516 \* \* \*

517 **Subd. 3. Objection to Permissive Intervention.** Any existing party may file with  
518 the court and serve upon all parties and the intervenor a written objection within ~~ten (10)~~14  
519 days of service of the motion to intervene.

520 \* \* \*

### 521 **RULE 361. DISCOVERY**

#### 522 **Rule 361.01. Witnesses**

523 Any party may call witnesses to testify at any hearing. Any party intending to call a  
524 witness other than an employee of the county agency or any party to the proceeding shall, at  
525 least ~~five (5)~~7 days before the hearing, provide to the other parties and the county agency  
526 written notice of the name and address of each witness.

#### 527 **Rule 361.02. Exchange of Documents**

528 **Subdivision 1. Documents Required to be Provided Upon Request.** If a complaint  
529 or motion has been served and filed in the expedited process, a party may request any of the  
530 documents listed below. The request must be in writing and served upon the appropriate

531 party. The request may be served along with the pleadings. A party shall provide the  
532 following documents to the requesting party no later than ~~ten (10)~~14 days from the date of  
533 service of the written request.

534 (a) Verification of income, health/dental insurance costs and availability,  
535 child care costs, and expenses.

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

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

539 (d) Written verification of any voluntary payments made for support.

540 (e) Written verification of any other court-ordered child support obligations.

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

545 **Subd. 3. Financial Statement.** If a complaint or motion has been served, any party  
546 may request in writing that a financial statement be completed by a party, other than a county  
547 agency, and submitted ~~five (5)~~7 days prior to hearing, or if no hearing is scheduled, within  
548 ~~ten (10)~~14 days from the request being served. Failure to comply is subject to remedies  
549 under Rule 361.04. Where a financial statement requests supporting documentation, it shall  
550 be attached.

551 \* \* \*

## 552 **Rule 361.03. Other Discovery**

553 **Subdivision 1. Motion for Discovery.** Any additional means of discovery available  
554 under the Minnesota Rules of Civil Procedure may be allowed only by order of the child  
555 support magistrate. The party seeking discovery shall **bring serve and file** motion before the  
556 child support magistrate for an order permitting additional means of discovery. The motion  
557 shall include the reason for the request and shall notify the other parties of the opportunity to  
558 respond within ~~five (5)~~7 days. The party seeking discovery has the burden of showing that  
559 the discovery is needed for the party's case, is not for purposes of delay or harassment, and  
560 that the issues or amounts in dispute justify the requested discovery. The motion shall be  
561 decided without a hearing unless the child support magistrate determines that a hearing is

562 necessary. The child support magistrate shall issue an order granting or denying the  
563 discovery motion. If the discovery motion is granted, the requesting party must serve the  
564 approved discovery requests upon the responding party and the discovery responses are due  
565 ~~ten (10)~~14 days following service of the discovery request, unless otherwise ordered.

566 **Subd. 2. Objections to Discovery.** If a party objects to discovery that party may  
567 serve and file a motion within ~~five (5)~~7 days of service of discovery. The motion may be  
568 decided without a hearing unless the child support magistrate determines that a hearing is  
569 necessary.

#### 570 **Rule 361.04. Discovery Remedies**

571 **Subdivision 1. Motions to Compel.** If a party fails to comply with an approved  
572 request for discovery or a request for documents under Rule 361.02, the party requesting the  
573 discovery may serve and file a motion for an order compelling an answer or compliance with  
574 the discovery request. The motion shall notify the other parties of the opportunity to respond  
575 within ~~five (5)~~7 days. The motion shall be decided without a hearing unless the child support  
576 magistrate determines that a hearing is necessary.

577 \* \* \*

### 578 **RULE 363. DEFAULT**

579 \* \* \*

#### 580 **Rule 363.02. Procedure**

581 The initiating party may proceed by default if:

582 (a) all noninitiating parties have been properly served with the summons or  
583 notice of motion;

584 (b) the summons or notice of motion did not contain a hearing date; and

585 (c) there has been no written answer or return of the request for hearing form  
586 from any party within ~~twenty (20)~~21 days from the date the last party was served.

587 The initiating party shall file an order with the court within forty-five (45) days from  
588 the date the last noninitiating party was served with the summons and complaint or notice of  
589 motion and motion. The initiating party shall also file with the court a current affidavit of  
590 default and a current affidavit of non-military status. If an order is not filed with the court  
591 within forty-five (45) days, the court administrator shall mail a notice to all parties that the  
592 matter shall be scheduled for hearing unless the initiating party files an order along with all

593 necessary documents within ~~ten (10)~~14 days from the date notice was mailed. If the  
594 initiating party fails to file the necessary documents within the allotted ~~ten (10)~~14 days, the  
595 court administrator shall set the matter on for hearing and serve upon all parties and the  
596 county agency by U.S. mail at least ~~fourteen (14)~~14 days before the scheduled hearing, notice  
597 of the date, time, and location of the hearing.

598 **Rule 363.03. Order Accepted**

599 The child support magistrate may sign an order filed pursuant to Rule 363.02 if the  
600 child support magistrate finds that it is supported by law, is reasonable and fair, and that each  
601 noninitiating party:

602 (a) was properly served with the summons and complaint or notice of motion  
603 and motion;

604 (b) was notified of the requirement to either serve and file a written answer or  
605 return the request for hearing form within ~~twenty (20)~~21 days of service of the summons and  
606 complaint or notice of motion and motion; and

607 (c) failed to serve and file a written answer or return the request for hearing  
608 form within ~~twenty (20)~~21 days from the date of service.

609 \* \* \*

610 **RULE 364. HEARING PROCESS**

611 \* \* \*

612 **Rule 364.02. Scheduling of Hearing**

613 The initiating party shall schedule a hearing if a written answer or a request for  
614 hearing form is received. The initiating party shall contact the court administrator or the  
615 court administrator's designee to obtain a hearing date and shall serve upon all parties and  
616 the county agency by United States mail at least ~~fourteen (14)~~14 days before the scheduled  
617 hearing, notice of the date, time, and location of the hearing.

618 **Rule 364.03. Timing of Hearing**

619 In the event the parties are unable to resolve the matter, a hearing shall be held no  
620 sooner than ~~twenty (20)~~21 days after service of the summons and complaint or notice of  
621 motion and motion, unless the time period is waived by the parties. Every effort shall be  
622 made to conduct the hearing no later than ~~sixty (60)~~60 days after service of the summons and  
623 complaint or notice of motion and motion on the last person served or, in an establishment of

624 parentage case, no later than ~~sixty (60)~~60 days after receipt of the genetic test results. If  
625 conducted later than ~~sixty (60)~~60 days, the court administrator shall report that fact to the  
626 chief judge of the judicial district. Conducting a hearing later than ~~sixty (60)~~60 days after  
627 service or receipt of blood or genetic test results does not deprive the child support magistrate  
628 of jurisdiction.

629 \* \* \*

630

631 **Rule 364.05. Continuance of Hearing**

632 Upon agreement of the parties or a showing of good cause, the child support  
633 magistrate may grant a request for continuance of a hearing. An order granting a continuance  
634 may be stated orally on the record or may be in writing. Unless time does not permit, a  
635 request for continuance shall be made in writing, and shall be filed with the court and served  
636 upon all parties at least ~~five (5)~~7 days before the hearing. In determining whether good cause  
637 exists, due regard shall be given to the ability of the party requesting a continuance to  
638 effectively proceed without a continuance.

639 \* \* \*

640 **Rule 364.09. Right to Present Evidence**

641 \* \* \*

642 **Subd. 3. Necessary Preparation Required.** The parties shall exchange copies of  
643 documents ~~five (5)~~7 days before the hearing. If the exchange is not completed within the  
644 required time frame, each party shall bring to the hearing all evidence, both oral and written,  
645 the party intends to present. Each party must have enough copies of each exhibit the party  
646 intends to offer so that a copy can be provided to all other parties and the child support  
647 magistrate at the time of the hearing. The child support magistrate shall have the discretion  
648 in determining whether evidence that was not timely exchanged prior to the hearing should or  
649 should not be admitted into evidence.

650 \* \* \*

651 **Rule 364.14. Discretion to Leave Record Open**

652 At the conclusion of a hearing, the child support magistrate may leave the record  
653 open and request or permit submission of additional documentation. Unless otherwise  
654 ordered by the child support magistrate, such additional documentation shall be submitted to

655 the court within ~~ten (10)~~14 days of the conclusion of the hearing. Documents submitted after  
656 the due date or without permission of the child support magistrate shall be returned to the  
657 sender and shall not be considered by the child support magistrate when deciding the case.

658 \* \* \*

659 **RULE 365. DECISION AND ORDER OF CHILD SUPPORT MAGISTRATE**

660 \* \* \*

661 **Rule 365.02. Timing**

662 Within ~~thirty (30)~~28 days of the close of the record the child support magistrate shall  
663 file with the court a decision and order. The child support magistrate may serve the order  
664 upon the parties at the hearing.

665 \* \* \*

666 **Rule 365.04. Notice of Filing of Order or Notice of Entry of Judgment**

667 **Subdivision 1. Service by Court Administrator.** Within ~~five (5)~~7 days of receipt  
668 of the decision and order of the child support magistrate the court administrator shall serve a  
669 notice of filing of order or notice of entry of judgment upon each party by U.S. mail, together  
670 with a copy of the order or judgment if a copy of the order was not served at the hearing.  
671 The court administrator shall use the notice of filing form prepared by the state court  
672 administrator which shall set forth the information required in subdivision 2.

673 \* \* \*

674 **RULE 366. TRANSCRIPT**

675 **Rule 366.01 Ordering of Transcript**

676 **Subdivision 1. Informational Request.** Any person may request a transcript of any  
677 proceeding held before a child support magistrate, except as prohibited by statute or rule, by  
678 filing a request for transcript form with the court. The person requesting the transcript must  
679 make satisfactory arrangements for payment with the transcriber within ~~thirty (30)~~28 days of  
680 ordering the transcript or the request for the transcript shall be deemed cancelled. The person  
681 requesting the transcript may withdraw the request any time prior to the time transcription  
682 has begun. The transcriber shall file the original with the court and serve a copy upon the  
683 requesting person. The transcriber shall also file with the court an affidavit of service  
684 verifying that service has been made upon the requesting person.

685           **Subd. 2. Clerical or Review Requests.** If a party chooses to request a transcript for  
686 purposes of bringing or responding to a motion to correct clerical mistakes, a motion for  
687 review, or a combined motion, a request for transcript form shall be filed with the court  
688 within the time required under Rule 377.02 and 377.04. The party requesting the transcript  
689 must make satisfactory arrangements for payment with the transcriber within ~~thirty (30)~~28  
690 days of ordering the transcript or the request for the transcript shall be deemed cancelled. The  
691 requesting party may withdraw that party’s request for a transcript any time prior to the time  
692 transcription has begun. The transcriber shall file the original with the court and serve each  
693 party, including the county agency if a party, with a copy. The transcriber shall also file with  
694 the court an affidavit of service verifying that service has been made upon all parties.  
695 Ordering and filing of a transcript does not delay the due dates for the submissions described  
696 in Rule 377.02 and Rule 377.04. Filing of the transcript with the court closes the record for  
697 purposes of Rule 377.09, subd. 1.

698           **Subd. 3. Appellate Request.** If the transcript request is for appellate review, the  
699 transcriber shall comply with all appellate rules.

700 \* \* \*

701           **RULE 368. REMOVAL OF A PARTICULAR CHILD SUPPORT MAGISTRATE**

702 \* \* \*

703           **Rule 368.02. Removal for Cause**

704           **Subdivision 1. Procedure.** Any party may serve upon the other parties and file with  
705 the court a request to remove the child support magistrate assigned to hear the matter. If the  
706 assigned child support magistrate denies the request to remove, upon written request the chief  
707 judge of the judicial district shall determine whether cause exists to remove the assigned  
708 child support magistrate. If the chief judge of the judicial district is the subject of the request  
709 to remove, the assistant chief judge shall determine whether cause exists to remove the child  
710 support magistrate. A request to remove shall be filed with the court and served upon the  
711 parties within ~~ten (10)~~14 days of service of notice of the name of the magistrate assigned to  
712 hear the matter or within ~~ten (10)~~14 days of discovery of prejudice. If assignment of a child  
713 support magistrate is made less than ~~ten (10)~~14 days before the hearing, the request to  
714 remove shall be made as soon as practicable after notice of assignment is given.

715           **Subd. 2. Grounds to Remove.** Removal of a child support magistrate requires an  
716 affirmative showing of prejudice. A showing that the child support magistrate might be  
717 excluded for bias from acting as a juror in the matter constitutes an affirmative showing of  
718 prejudice.

719 \* \* \*

## 720           **RULE 370. ESTABLISHMENT OF SUPPORT PROCEEDINGS**

### 721           **Rule 370.01. Commencement**

722           An initial proceeding to establish support shall be commenced in the expedited  
723 process by service of a summons and complaint pursuant to Rule 370.03. If the summons  
724 does not contain a hearing date, a request for hearing form and a supporting affidavit shall be  
725 attached to the summons and complaint. In addition to service of the summons and  
726 complaint, an order to show cause may be issued pursuant to Minn. Gen. R. Prac. 303.05.  
727 Service shall be made at least ~~twenty (20)~~21 days prior to any scheduled hearing.

728 \* \* \*

### 729           **Rule 370.04. Filing Requirements**

730           **Subdivision 1. Initiating Party.** No later than ~~five (5)~~7 days before any scheduled  
731 hearing or, if no hearing is scheduled, within ~~fourteen (14)~~14 days from the date the last party  
732 was served, the initiating party shall file the following with the court:

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

738           **Subd. 2. Responding Party.** If a noninitiating party responds with a written answer  
739 pursuant to Rule 370.05, the following shall be filed with the court no later than ~~five (5)~~7  
740 days before any scheduled hearing or, if no hearing is scheduled, within ~~fourteen (14)~~14 days  
741 from the date the last party was served:

- 742                   (a) the original written answer; and
- 743                   (b) proof of service upon each party pursuant to Rule 355.04.

744 \* \* \*

### 745           **Rule 370.05 Response**

746           **Subdivision 1. Hearing Date in Summons.** Inclusion of a hearing date does not  
747 preclude a noninitiating party from serving and filing a written answer. Within ~~twenty~~  
748 ~~(20)~~21 days from service of the summons and complaint, a noninitiating party may serve  
749 upon all parties a written answer to the complaint. The service and filing of a written answer  
750 or the failure of a noninitiating party to appear at a hearing does not preclude the hearing  
751 from going forward, and the child support magistrate may issue an order based upon the  
752 information in the file or evidence presented at the hearing.

753           **Subd. 2. Hearing Date Not in Summons.** If the summons does not contain a  
754 hearing date, within ~~twenty (20)~~21 days from service of the summons and complaint, a  
755 noninitiating party shall either:

756           (a) request a hearing by returning the request for hearing form to the initiating party;  
757 or

758           (b) serve upon all other parties and file with the court a written answer to the  
759 complaint.

760           The initiating party shall schedule a hearing upon receipt of the request for hearing  
761 form or the service of a written answer.

## 762 **Rule 370.06. Amended Pleadings**

763           **Subdivision 1. Service.** At any time up to ~~ten (10)~~14 days before a scheduled  
764 hearing, the initiating party may serve and file amended pleadings. If no hearing date has  
765 been scheduled, the initiating party may serve and file amended pleadings within the time  
766 remaining for response.

767           **Subd. 2. Response.** If the noninitiating party chooses to respond to amended  
768 pleadings, the response must be made within the time remaining for response to the original  
769 pleading or within ~~ten (10)~~14 days after service of the amended pleadings, whichever period  
770 is longer, unless the court otherwise orders.

771 \* \* \*

## 772 **RULE 371. PARENTAGE ACTIONS**

### 773 **Rule 371.01. Commencement**

774           A proceeding to establish parentage shall be commenced in the expedited process by  
775 service of a summons and complaint pursuant to Rule 371.03. A supporting affidavit may  
776 also be served. Unless blood or genetic testing has already been completed, a request for

777 blood or genetic testing shall be served with the summons and complaint. In addition to  
778 service of the summons and complaint, an order to show cause may be issued pursuant to  
779 Minn. Gen. R. Prac. 303.05. Service shall be completed at least ~~twenty (20)~~21 days prior to  
780 any scheduled hearing.

781 \* \* \*

782 **Rule 371.04. Filing Requirements**

783 **Subdivision 1. Initiating Party.** No later than ~~five (5)~~7 days before any scheduled  
784 hearing or, if no hearing is scheduled, within ~~fourteen (14)~~14 days from the date the last party  
785 was served, the initiating party shall file the following with the court:

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

790 **Subd. 2. Responding Party.** If a noninitiating party responds with a written  
791 response pursuant to Rule 371.05, the following, if served, shall be filed with the court no  
792 later than ~~five (5)~~7 days before any scheduled hearing:

- 793 (a) the original written answer; or
- 794 (b) a request for blood or genetic testing; and
- 795 (c) proof of service upon each party pursuant to Rule 355.04.

796 \* \* \*

797 **Rule 371.05. Response**

798 **Subdivision 1. Response Options.** In addition to appearing at the hearing as  
799 required under Rule 371.10, subd. 1, a noninitiating party may do one or more of the  
800 following:

- 801 (a) contact the initiating party to discuss settlement; or
- 802 (b) within ~~fourteen (14)~~14 days of service of the summons and complaint,  
803 serve upon all parties one or more of the written responses pursuant to subdivision 2.

804 **Subd. 2. Types of Written Response.**

805 **(a) Request for Blood or Genetic Test.** A noninitiating party may serve and file  
806 a request for blood or genetic testing either alleging or denying paternity. Filing of a request  
807 for blood or genetic testing shall, with the consent of the parties, extend the time for filing

808 and serving a written answer until the blood or genetic test results have been mailed to the  
809 parties. In this event, the alleged parent shall have ~~ten (10)~~14 days from the day the test  
810 results are mailed to the alleged parent in which to file and serve a written answer to the  
811 complaint.

812 \* \* \*

813 **RULE 372. MOTIONS TO MODIFY, MOTIONS TO SET SUPPORT, AND OTHER**  
814 **MATTERS**

815 **Rule 372.01. Commencement**

816 **Subdivision 1. Motions to Modify and Motions to Set Support.** A proceeding to  
817 modify an existing support order shall be commenced in the expedited process by service of  
818 a notice of motion, motion, and supporting affidavit pursuant to Rule 372.03. A proceeding  
819 to set support where a prior order reserved support may be commenced in the expedited  
820 process by service of a notice of motion and motion and supporting affidavit pursuant to Rule  
821 372.03. If the notice of motion does not contain a hearing date, a request for hearing form  
822 shall be attached to the notice of motion. In addition to service of the notice of motion and  
823 motion, an order to show cause may be issued pursuant to Minn. Gen. R. Prac. 303.05.  
824 Service shall be made at least ~~twenty (20)~~21 days prior to any scheduled hearing.

825 **Subd. 2. Other Motions.** Except as otherwise provided in these rules, all  
826 proceedings shall be commenced in the expedited process by service of a notice of motion,  
827 motion, and supporting affidavit.

828 \* \* \*

829 **Rule 372.04. Filing Requirements**

830 **Subdivision 1. Initiating Party.** No later than ~~five (5)~~7 days before any scheduled  
831 hearing or, if no hearing is scheduled, within ~~fourteen (14)~~14 days from the date the last party  
832 was served, the initiating party shall file the following with the court:

- 833 the original notice of motion;
- 834 the original motion;
- 835 the original supporting affidavit;
- 836 the request for hearing form, if returned to the initiating party; and
- 837 proof of service upon each party pursuant to Rule 355.04.

838           **Subd. 2. Responding Party.** If a noninitiating party responds with a responsive  
839 motion or counter motion pursuant to Rule 372.05, the following shall be filed with the court  
840 no later than ~~five (5)~~7 days before any scheduled hearing or, if no hearing is scheduled,  
841 within ~~fourteen (14)~~14 days from the date the last party was served:

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

844 \* \* \*

845 **Rule 372.05. Response**

846           **Subdivision 1. Hearing Date Included in the Notice of Motion.** Inclusion of a  
847 hearing date does not preclude a noninitiating party from serving and filing a responsive  
848 motion or counter motion. A noninitiating party may serve upon all parties a responsive  
849 motion or counter motion along with a supporting affidavit at least ~~fourteen (14)~~14 days prior  
850 to the hearing. The service and filing of a responsive motion or counter motion does not  
851 preclude the hearing from going forward and the child support magistrate may issue an order  
852 based upon the information in the file or evidence presented at the hearing if a noninitiating  
853 party fails to appear at the hearing.

854           **Subd. 2. Hearing Date Not Included in the Notice of Motion.** If the notice of  
855 motion does not contain a hearing date, a noninitiating party shall either:

- 856                   (a)     request a hearing by returning the request for hearing form to the  
857 initiating party; or
- 858                   (b)     within ~~fourteen (14)~~14 days of service of the notice of motion and  
859 motion, serve upon all other parties a responsive motion or counter motion.

860           The initiating party shall schedule a hearing upon receipt of a request for hearing  
861 form, a responsive motion, or counter motion. Failure of the noninitiating party to request a  
862 hearing, to serve a responsive motion, or to appear at a scheduled hearing shall not preclude  
863 the matter from going forward, and the child support magistrate may issue an order based  
864 upon the information in the file or the evidence presented at the hearing.

865 **Rule 372.06. Amended Motions**

866           **Subdivision 1. Service.** At any time up to ~~ten (10)~~14 days before a scheduled  
867 hearing, the initiating party may serve and file an amended motion. If no hearing date has

868 been scheduled, the initiating party may serve and file an amended motion within the time  
869 remaining for response.

870 **Subd. 2. Response.** If the noninitiating party chooses to respond to an amended  
871 motion, the response must be made within the time remaining for response to the original  
872 motion or within ~~ten (10)~~14 days after service of the amended motion, whichever period is  
873 longer, unless the court otherwise orders.

874 \* \* \*

875 **RULE 377. PROCEDURE ON A MOTION TO CORRECT CLERICAL MISTAKES,**  
876 **MOTION FOR REVIEW, OR COMBINED MOTION**

877 \* \* \*

878 **Rule 377.02. Timing of Motion**

879 To bring a motion to correct clerical mistakes, the aggrieved party shall perform items  
880 (a) through (e) as soon as practicable after discovery of the error. To bring a motion for  
881 review or a combined motion, the aggrieved party shall perform items (a) through (f) within  
882 ~~twenty (20)~~21 days of the date the court administrator served that party with the notice form  
883 as required by Rule 365.04.

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

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

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

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

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

896 (f) For a motion for review or combined motion, pay to the court  
897 administrator the filing fee required by Rule 356.01, if the party has not already done so. The

898 court administrator may reject the motion papers if the appropriate fee does not accompany  
899 the papers at the time of filing.

900 \* \* \*

901 **Rule 377.04. Response to Motion**

902 **Subdivision. 1. Timing of Response to Motion.** A party may respond to a motion  
903 to correct clerical mistakes or a motion for review. Any response shall state why the relief  
904 requested in the motion should or should not be granted. If a responding party wishes to  
905 raise other issues, the responding party must set forth those issues as a counter motion in the  
906 response. To respond to a motion to correct clerical mistakes the party shall perform items  
907 (a) through (e) within ~~ten (10)~~14 days of the date the party was served with the motion. To  
908 respond to a motion for review or a combined motion the party shall perform (a) through (f)  
909 within ~~thirty (30)~~28 days of the date the party was served with the notice under Rule 365.04.  
910 To respond to a counter motion, the party shall perform items (a) through (f) within ~~forty~~  
911 ~~(40)~~45 days of the date the party was served with the notice under Rule 365.04.

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

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

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

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

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

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

929 \* \* \*

930 **Rule 377.05. Calculation of Time**

931 **Subdivision 1. Timing for Response to Motion to Correct Clerical Mistakes.** To  
932 calculate the time to respond to a motion to correct clerical mistakes, three (3) days shall be  
933 added to the ten (10) days for a total of thirteen (13) days within which to respond when the  
934 motion is served by mail.

935 **Subd. 2. Timing for Service of Motion for Review or Combined Motion.** To  
936 calculate the time to serve a motion for review or combined motion, three (3) days shall be  
937 added to the twenty (20) days for a total of twenty-three (23) days within which to serve a  
938 motion when the notice form as required by Rule 365.04 is served by mail.

939 **Subd. 3. Timing for Response to Motion for Review or Combined Motion.** To  
940 calculate the time to serve a response to a motion for review or combined motion, three (3)  
941 days shall be added to the thirty (30) days for a total of thirty-three (33) days within which to  
942 respond when the notice form as required under Rule 365.04 is served by mail. If the motion  
943 for review or combined motion is served by mail, an additional three (3) days shall be added  
944 to the thirty-three (33) days for a total of thirty-six (36) days within which to respond.

945 **Subd. 4. Timing for Response to Counter Motion.** To calculate the time to serve a  
946 response to a counter motion, three (3) days shall be added to the forty (40) days for a total of  
947 forty-three (43) days within which to respond when the notice form as required under Rule  
948 365.04 is served by mail. If the counter motion to the motion for review or combined motion  
949 is served by mail, an additional three (3) days shall be added to the forty-three (43) days for a  
950 total of forty-six (46) days within which to respond.

951 \* \* \*

952 **Rule 377.10. Notice of Order or Judgment**

953 Within ~~five (5)~~ 7 days of receipt of an order issued as a result of a motion to correct  
954 clerical mistakes, a motion for review, or a combined motion, the court administrator shall  
955 serve a notice of filing of order or notice of entry of judgment upon each party by United  
956 States mail, along with a copy of the order or judgment. The notice shall state that the parties  
957 have a right to appeal to the court of appeals under Rule 378. If the order was issued by a  
958 district court judge, the court administrator shall provide a copy of the order to the child  
959 support magistrate.

960 \* \* \*

961 **RULE 378. APPEAL TO COURT OF APPEALS**

962 **Rule 378.01. Generally**

963 An appeal may be taken to the court of appeals from a final order or judgment of a  
964 child support magistrate or from a final order deciding a motion for review under Rule 376.  
965 Such an appeal shall be taken in accordance with the procedures set forth in the Minnesota  
966 Rules of Civil Appellate Procedure within ~~sixty (60)~~60 days of the date the court  
967 administrator serves upon the parties the notice of filing of order or notice of entry of  
968 judgment. If any party brings a timely motion to correct clerical mistakes under Rule 375 or  
969 a timely motion for review under Rule 376, the time for appeal is extended for all parties  
970 while that motion is pending. Once the last such pending motion is decided by the child  
971 support magistrate or district court judge, the ~~sixty (60)~~60 days to appeal from the final order  
972 or judgment of a child support magistrate or from a final order deciding a motion to correct  
973 clerical mistakes or a motion for review runs for all parties from the date the court  
974 administrator serves upon the parties the notice of filing of order or notice of entry of  
975 judgment disposing of that motion. A notice of appeal filed before the disposition of a timely  
976 motion to correct clerical mistakes or for review is premature and of no effect, and it does not  
977 divest the child support magistrate of jurisdiction to dispose of the motion. Except as  
978 otherwise provided in these rules, the Minnesota Rules of Civil Appellate Procedure shall  
979 govern the taking and processing of such appeals.

980 \* \* \*

981 **TITLE V. PROBATE RULES**

982 \* \* \*

983 **RULE 410. TRANSFER OF REAL ESTATE**

984 \* \* \*

985 **(b) Distribution of Real Property; Documents Required.** A personal  
986 representative shall provide a distributee of real property with the following documents:

987 (1) When distribution is made by decree, a certified copy of the decree of  
988 distribution assigning any interest in real property to the distributee.

989 (2) When distribution is made by deed from a personal representative in  
990 unsupervised administration:

991 (i) A certified copy of unrestricted letters (~~30~~28 days must have  
992 elapsed since date of issuance of letters to an informally appointed personal  
993 representative);

994 \* \* \*

995 **RULE 416. GUARDIANSHIPS AND CONSERVATORSHIPS**

996 \* \* \*

997 **(b) Visitors in Guardianship and Conservatorship Proceedings.** A visitor, as  
998 defined by law, may be appointed in every general guardianship or conservatorship  
999 proceeding.

1000 Every visitor shall have training and experience in law, health care or social work, as  
1001 the case may be, depending upon the circumstances of the proposed ward or conservatee.

1002 The visitor shall be an officer of the court and shall be disinterested in the  
1003 guardianship or conservatorship proceedings. If the court at any time determines that the  
1004 visitor, or the firm or agency by which he or she is employed, has or had, at the time of the  
1005 hearing, a conflict of interest, the court shall immediately appoint a new visitor and may, if  
1006 necessary, require a hearing de novo.

1007 The visitor shall, (a) without outside interferences, meet with the proposed ward or  
1008 conservatee, either once or more than once as the visitor deems necessary, (b) observe his or  
1009 her appearance, lucidity and surroundings, (c) serve, read aloud, if requested, and explain the  
1010 petition and notice of hearing, (d) assist, if requested, in obtaining a private or court  
1011 appointed lawyer, (e) advise the proposed ward or conservatee that a report will be filed at  
1012 least ~~five (5)~~7 days before the hearing and that the report is available to the proposed ward or  
1013 conservatee or the ward's or conservatee's lawyer, (f) prepare a written report to the court  
1014 setting forth all matters the visitor deems relevant in determining the need for a guardian or  
1015 conservator, including recommendations concerning appointment and limitation of powers,  
1016 (g) file the original report with the court and, (h) serve a copy upon the petitioner or  
1017 petitioner's lawyer at least ~~five (5)~~7 days prior to the hearing, (i) appear, testify and submit to  
1018 cross examination at the hearing concerning his or her observations and recommendations,  
1019 unless such appearance is excused by the court.

1020 \* \* \*

1021 **RULE 417. TRUSTEES-ACCOUNTING—PETITION FOR APPOINTMENT**

1022 \* \* \*

1023 **Rule 417.06 Hearing.**

1024 Hearings upon annual accounts may be ordered upon the request of any interested  
1025 party. A hearing shall be held on such annual accounts at least once every five years by  
1026 mailing, at least ~~15~~14 days before the date of the hearing, a copy of the order for hearing to  
1027 those beneficiaries of the trust who are known to or reasonably ascertainable by the  
1028 petitioner, to any other person requesting notice, or as ordered by the court. In trusts of the  
1029 value of \$20,000 or less, the five year hearing requirement may be waived by the court in its  
1030 discretion. Any hearing on an account may be ex parte if each party in interest then in being  
1031 shall execute waiver of notice in writing which shall be filed with the court administrator, but  
1032 no account shall be finally allowed except upon a hearing on the record in open court. Such  
1033 five year hearings shall be held within 150 days after the end of the accounting period of  
1034 each fifth annual unallowed account, and the court administrator shall notify each trustee and  
1035 the Court if the hearing is not held within such 150-day period.

1036 \* \* \*

1037 **RULE 418. DEPOSIT OF WILLS**

1038 \* \* \*

1039 (c) Examination by Guardian or Conservator. A guardian or conservator of the  
1040 testator may review the will upon presentation of identification bearing the photograph of the  
1041 person seeking review and a copy of valid letters of guardianship or conservatorship. If the  
1042 guardianship or conservatorship proceedings are venued in a county other than that where the  
1043 will is filed, the required copy of the letters shall be certified by the issuing court within ~~30~~28  
1044 days of the request to review the will. The will may only be examined by the guardian or  
1045 conservator in the presence of the court administrator or deputy administrator, who shall  
1046 reseal it after the review is completed and shall endorse on the resealed envelope the date it  
1047 was opened, by whom it was opened and that the original was placed back in the envelope.

1048

1049 **TITLE VI. CONCILIATION COURT RULES**

1050 \* \* \*

1051 **RULE 503. COMPUTATION OF TIME**



1083 (1) the defendant has a counterclaim against plaintiff arising out of the same  
1084 transaction or occurrence as plaintiff's claim, the amount of which is beyond monetary  
1085 jurisdiction of the conciliation court, and

1086 (2) the defendant has commenced or will commence within ~~30~~28 days an  
1087 action against plaintiff in a court of competent jurisdiction based on such claim.

1088 (b) The plaintiff's action shall be subject to reinstatement on the trial calendar at any  
1089 time after ~~30~~28 days and up to three years, upon the filing by plaintiff of an affidavit showing  
1090 that the plaintiff has not been served with a summons by defendant. If the action is  
1091 reinstated, the court administrator shall set the case for trial and mail notice of the trial date to  
1092 the parties by first class mail.

1093 \* \* \*

1094 **RULE 518. DOCKETING OF JUDGMENT IN DISTRICT COURT;**  
1095 **ENFORCEMENT**

1096 (a) **Docketing.** Except as otherwise provided in Rule 519 with respect to installment  
1097 judgments, when a judgment has become finally effective as defined in Rule 515 of these  
1098 rules the judgment creditor may obtain a transcript of the judgment from the court  
1099 administrator on payment of the applicable statutory fee and file it in district court. Once  
1100 filed in district court the judgment becomes and is enforceable as a judgment of district court,  
1101 and the judgment will be docketed by the court administrator upon presentation of an  
1102 affidavit of identification. No writ of execution or garnishment summons shall be issued out  
1103 of conciliation court.

1104 (b) **Enforcement.** Unless the parties have otherwise agreed, if a conciliation court  
1105 judgment has been docketed in district court for a period of at least ~~30~~28 days and the  
1106 judgment is not satisfied, the district court shall upon request of the judgment creditor order  
1107 the judgment debtor to mail to the judgment creditor information as to the nature, amount,  
1108 identity, and location of all the debtor's assets, liabilities, and personal earnings. The  
1109 information shall be provided on a form prescribed by the Supreme Court (see form UCF-22  
1110 appended to these rules), and the information shall be sufficiently detailed to enable the  
1111 judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt  
1112 assets and earnings of the judgment debtor. The order shall contain a notice that failure to  
1113 complete the form and mail it to the judgment creditor within ten days after service of the

1114 order may result in a citation for civil contempt of court. Cash bail posted as a result of being  
1115 cited for civil contempt of court order under this rule may be ordered payable to the creditor  
1116 to satisfy the judgment, either partially or fully.

1117 **Rule 519. Docketing of Judgment Payable in Installments**

1118 No transcript of a judgment of conciliation court payable in installments shall be  
1119 issued and filed until 2021 days after default in payment of an installment due.

1120

1121 **RULE 520. VACATION OF JUDGMENT ORDER AND JUDGMENT**

1122 **(a) Vacation of Order for Judgment Within 2021 Days.** When a default judgment  
1123 or judgment of dismissal on the merits has been ordered for failure to appear, the judge  
1124 within 2021 days after notice was mailed may vacate said judgment order ex parte and grant  
1125 a new trial on a proper showing by the defaulting party of lack of notice, mistake,  
1126 inadvertence or excusable neglect as the cause of that party's failure to appear. Absolute or  
1127 conditional costs not to exceed \$50 to the other party may be ordered as a prerequisite to that  
1128 relief.

1129 **(b) Vacation of Judgment After 2021 Days.** A default judgment may be vacated  
1130 by the judge upon a proper showing by the defendant that: (1) the defendant did not receive  
1131 a summons before the trial within sufficient time to permit a defense and did not receive  
1132 notice of the order for default judgment within sufficient time to permit application for relief  
1133 within 2021 days after notice, or (2) upon other good cause shown. Application for relief  
1134 pursuant to this Rule 520(b) shall be made within a reasonable time after the applicant learns  
1135 of the existence of the judgment and shall be made by motion in accordance with the  
1136 procedure governing motions in the district court, except that the motion is filed with the  
1137 court administrator of conciliation court. The order vacating the judgment shall grant a new  
1138 trial on the merits and may be conditioned upon payment of absolute or conditional costs not  
1139 to exceed \$50.

1140 \* \* \*

1141 **RULE 521. REMOVAL (APPEAL) TO DISTRICT COURT**

1142 \* \* \*

1143           **(b) Removal Procedure.** To effect removal, the aggrieved party must perform all  
1144 the following within 2021 days after the date the court administrator mailed to that party  
1145 notice of the judgment order:

1146           (1) Serve on the opposing party or the opposing party’s lawyer a demand for  
1147 removal of the cause to district court for trial de novo. Service shall be by first class mail.  
1148 Service may also be by personal service in accordance with the provisions for personal  
1149 service of a summons in district court. The demand for removal shall state whether trial  
1150 demanded is to be by court or jury, and shall indicate the name, address, and telephone  
1151 number of the aggrieved party’s lawyer, if any. If the aggrieved party is a corporation, the  
1152 demand for removal must be signed by the party’s attorney.

1153           (2) File with the court administrator the original demand for removal with  
1154 proof of service. The aggrieved party may file with the court administrator within the 2021-  
1155 day period the original and copy of the demand together with an affidavit by the party or the  
1156 party’s lawyer showing that after due and diligent search the opposing party or opposing  
1157 party’s lawyer cannot be located. This affidavit shall serve in lieu of making service and  
1158 filing proof of service. When an affidavit is filed, the court administrator shall mail the copy  
1159 of the demand to the opposing party at the party’s last known residence address.

1160 \* \* \*

1161           **(c) Demand for Jury Trial.** Where no jury trial is demanded on removal under  
1162 Rule 521(b) by the aggrieved party, if the opposing party desires a jury trial that party shall  
1163 perform all the following within 2021 days after the demand for removal was served on the  
1164 party or lawyer:

1165           (1) Serve a jury trial demand by first class mail upon the aggrieved party or  
1166 that party’s lawyer. Service may also be by personal service in accordance with the  
1167 provisions for personal service of a summons in district court.

1168           (2) File the original jury trial demand and proof of service with the court  
1169 administrator.

1170           (3) Pay to the court administrator the amount prescribed by law for requesting  
1171 a jury trial in a civil action in district court and, if the demand is the first paper filed by the  
1172 party in the district court proceeding, pay to the administrator the amount prescribed by law  
1173 for filing a civil action in district court. A party who is unable to pay the fees may apply for

1174 permission to proceed without payment of fees pursuant to the procedure set forth in  
1175 Minnesota Statutes, section 563.01.

1176 \* \* \*

1177 **(e) Limited Removal.**

1178 (1) When a motion for vacation of an order for judgment, or judgment under  
1179 Rule 520(a) or (b) of these rules, is denied, the aggrieved party may demand limited removal  
1180 to the district court for hearing de novo (new hearing) on the motion. Procedure for service  
1181 and filing of the demand for limited removal and notice of hearing de novo, proof of service  
1182 of the notice, and procedure in case of inability of the aggrieved party to make service on the  
1183 opposing party or the opposing party's lawyer shall be in the same manner prescribed in part  
1184 (b) of this rule, except that the deadline for effecting limited removal shall be ~~twenty~~ 21 days  
1185 after the date that the court administrator mails notice of the denial of the motion for vacation  
1186 of the order for judgment or judgment. The fee payable by the aggrieved party to the court  
1187 administrator for limited removal shall be the same as the filing fee prescribed by law for  
1188 filing of a civil action in district court. The court administrator shall then place the matter on  
1189 the special term calendar for the date specified in the notice. At the hearing in district court,  
1190 either party may be represented by a lawyer.

1191 (2) A judge other than the conciliation court judge who denied the motion,  
1192 shall hear the motion de novo (anew) and may (A) deny the motion or (B) grant the motion.  
1193 In determining the motion the judge shall consider the entire file plus any affidavits  
1194 submitted by either party or their lawyers.

1195 (3) The court administrator shall send by mail a copy of the order made in  
1196 district court after de novo hearing to both parties and the venue shall be transferred back to  
1197 conciliation court.

1198 **RULE 522. PLEADINGS IN DISTRICT COURT**

1199 The pleadings in conciliation court shall constitute the pleadings in district court.  
1200 Any party may amend its statement of claim or counterclaim if, within ~~30~~28 days after  
1201 removal is perfected, the party seeking the amendment serves on the opposing party and files  
1202 with the court a formal complaint conforming to the Minnesota Rules of Civil Procedure. If  
1203 the opposing party fails to serve and file an answer within the time permitted by the  
1204 Minnesota Rules of Civil Procedure, the allegations of the formal complaint are deemed

1205 denied. On the motion of any party or on its own initiative, the court may order either or  
1206 both parties to prepare, serve and file formal pleadings.

1207

1208 **TITLE VII. HOUSING COURT RULES—HENNEPIN AND**  
1209 **RAMSEY COUNTIES**

1210 \* \* \*

1211 **RULE 605. RETURN OF SUMMONS**

1212 All summons shall be served in the manner required by Minnesota Statutes, Chapter  
1213 504B, and the affidavit of service shall be filed with the court by 3:00 o'clock p.m. 3  
1214 business days prior to the hearing or the matter may be stricken. The affidavit must contain  
1215 the printed or typed name of the person who served the summons.

1216 \* \* \*

1217 **RULE 610. MOTIONS**

1218 Any motion otherwise allowed by the Minnesota Rules of Civil Procedure may be  
1219 made by any party orally or in writing at any time including the day of trial. Whenever  
1220 possible, oral or written notice of any dispositive motions and the grounds therefore shall be  
1221 provided by the moving party to all parties prior to the hearing.

1222 All motions shall be heard by the court as soon as practicable. The court may grant a  
1223 request by any party for time to prepare a response to any motion for good cause shown by  
1224 the requesting party or by agreement of the parties.

1225 The requirements of service of notice of motions and any time periods set forth in the  
1226 Minnesota Rules of Civil Procedure do not apply.

1227 **RULE 611. REVIEW OF REFEREE'S DECISION**

1228 (a) **Notice.** In all cases except conciliation court actions, a party not in default may  
1229 seek judge review of a decision or sentence recommended by the referee by serving and  
1230 filing a notice of review on the form prescribed by the court administrator. The notice must  
1231 be filed within ~~ten~~ 14 days after oral announcement in court by the referee of the  
1232 recommended order or ~~within 13 days after~~ service by mail of the adopted written order,  
1233 whichever occurs first. Service of the written order shall be deemed complete and effective  
1234 upon the mailing of a copy of the order to the last known address of the petitioner.

1235 \* \* \*

1236 (c) **Transcripts.** The petitioner must obtain a transcript from the referee's court  
1237 reporter. The petitioner must make satisfactory arrangements for payment with the court  
1238 reporter or arrange for payment in forma pauperis.

1239 Any transcript request by the petitioner must be made within **one day of the date the**  
1240 **notice of review is filed.** The transcript must be provided within ~~five business~~ seven days  
1241 after its purchase by the petitioner.

1242 For good cause the reviewing judge may extend any of the time periods described in  
1243 this Rule 611(c).

## 1244 TITLE VIII. RULES RELATING TO CRIMINAL MATTERS

### 1245 RULE 702. BAIL

1246 \* \* \*

1247 (c) **Surety Insolvency.** Whenever a corporate surety becomes insolvent, the local  
1248 agent shall notify the State Court Administrator's Office and the court in every county in  
1249 which it has issued or applied to issue bonds, in writing immediately. Within ~~fourteen (14)~~ 14  
1250 days after such notice to the court, the agent shall file with the court administrator a security  
1251 bond to cover outstanding obligations of insolvent surety, which may be reduced  
1252 automatically as the obligations are reduced. In the absence of such surety or security bond,  
1253 a summons shall be sent to all principals on the bonds of the surety.

1254 (e) **Forfeiture of Bonds.** Whenever a bail bond is forfeited by a judge, the surety  
1255 and bondsman shall be notified by the court administrator in writing, and be directed to make  
1256 payment in accordance with the terms of the bond within ~~ninety (90)~~ 90 days from the date of  
1257 the order of forfeiture. A copy of the order of forfeiture shall be forwarded with the notice.

1258 (f) **Reinstatement.** Any motion for reinstatement of a forfeited bond or cash bail  
1259 shall be supported by a petition and affidavit and shall be filed with the court administrator.  
1260 A copy of said petition and affidavit shall be served upon the prosecuting attorney and the  
1261 principal of the bond in the manner required by Minn. R. Civ. P. 4.03(e)(1). A petition for  
1262 reinstatement filed within ~~ninety (90)~~ 90 days of the date of the order of forfeiture shall be  
1263 heard and determined by the judge who ordered the forfeiture, or the chief judge.  
1264 Reinstatement may be ordered on such terms and conditions as the court may require. A  
1265 petition for reinstatement filed between ~~ninety (90) days and one hundred eighty (180)~~ 90 and  
1266 180 days from date of forfeiture shall be heard and determined by the judge who ordered

1267 forfeiture or the judge's successor and reinstatement may be ordered on such terms and  
1268 conditions as the court may require, but only with the concurrence of the chief judge and  
1269 upon the condition that a minimum penalty of not less than ten per cent (10%) of the  
1270 forfeited bail be imposed. No reinstatement of a forfeited bond or cash bail shall be allowed  
1271 unless the petition and affidavit are filed within ~~one hundred eighty (180)~~180 days from the  
1272 date of the order of forfeiture.

1273 \* \* \*

1274 **(h) Bonding Privilege Suspension.** A failure to make payment on a forfeited bail  
1275 within ~~ninety (90)~~90 days as above provided shall automatically suspend the surety and its  
1276 agent from writing further bonds. Such suspension shall apply throughout the State of  
1277 Minnesota and shall continue for a period of ~~thirty (30)~~28 days from the date the principal  
1278 amount of the bond is deposited in cash with the court administrator.

1279 **RULE 703. CERTIFICATES OF REPRESENTATION**

1280 In any criminal case, a lawyer representing a client, other than a public defender, shall  
1281 file with the court administrator on the first appearance a “certificate of representation,” in  
1282 such form and substance as a majority of judges in the district specifies.

1283 Once a lawyer has filed a certificate of representation, that lawyer cannot withdraw  
1284 from the case until all proceedings have been completed, except upon written order of the  
1285 court pursuant to a written motion, or upon written substitution of counsel approved by the  
1286 court ex parte.

1287 A lawyer who wishes to withdraw from a criminal case must file a written motion and  
1288 serve it by mail or personal service upon the client and upon the prosecutor; and the lawyer  
1289 shall have the matter heard by the court. No motion of withdrawal will be heard within ten  
1290 days of a date certain for hearing or trial.

1291 If the court approves the withdrawal, it shall be effective when the order has been  
1292 served on the client and the prosecutor by mail or personal service and due proof of such  
1293 service has been filed with the court administrator.

1294

1295 **TITLE IX. JURY MANAGEMENT RULES**

1296 With amendments effective as of January 1, 2008

1297 \* \* \*

1298

1299 **RULE 807. JURY QUESTIONNAIRE AND SUMMONS. ONE-STEP PROCESS**

1300 (a) The jury commissioner shall mail to every prospective juror whose name has  
1301 been drawn a juror qualification questionnaire and summons for service, along with  
1302 instructions to fill out and return the questionnaire by mail within ~~ten~~14 days of receipt.

1303 \* \* \*

1304 **RULE 813. CHALLENGING COMPLIANCE WITH SELECTION PROCEDURE**

1305 (a) A party may move to stay the proceedings, quash the indictment or for other  
1306 appropriate relief, on the ground that these rules have not been complied with. Such motion  
1307 should be made within ~~seven~~7 days after the moving party discovers or should have  
1308 discovered the grounds for the motion, and in any event before the petit jury is sworn to try  
1309 the case.

1310 \* \* \*

1311

1312