

In April 2015, the Minnesota Supreme Court officially adopted amendments to the Minnesota Rules of Civil Procedure and Minnesota General Rules of Practice. These amendments became effective on July 1, 2015. To get you caught up to speed, here are ten rule changes every civil litigator needs to know:

1. Mandatory e-Filing

As part of the court system's move towards its goal of mandatory statewide e-filing by 2016, electronic filing through the Electronic Filing System ("eFS") is now mandatory in the following counties: Cass, Clay, Cook, Dakota, Faribault, Hennepin, Kandiyohi, Lake, Morrison, Ramsey, and Washington. *See* Minn. Gen. R. Prac. 14.01(b). Rule 14 applies to all attorneys, government agencies, and guardians ad litem. If an attorney wants to continue filing on paper, he or she must first file a motion with the Chief Judge of the District Court showing good cause for the paper filings. *See* Minn. Gen. R. Prac. 14.01 (b)(3). However, such motions should be rare and will be granted infrequently. Fax filing is still allowed in counties where e-filing is not yet mandatory. Minn. Gen. R. Prac. 14.01(b)(1); 14.03(c).

There are four main exceptions to mandatory e-filing: (1) wills deposited for safe-keeping under Minn. Stat. § 524.2-515; (2) documents in parental notification bypass proceedings under Minn. Stat. § 144.343; (3) documents ordered to be filed conventionally by the presiding judge; and (4) if directed by the presiding judge, documents submitted for *in camera* review may be filed by e-mail to chambers. Minn. R. Gen. Prac. 14.01(b)(2)(i-ii); 14.01(b)(3); 14.06.

2. Mandatory E-Service

If you practice in one of the counties with mandatory e-filing, you must also use eFS to electronically serve recipients registered on eFS. Minn. R. Gen. Prac. 14.03(d). Conveniently, the record of service in eFS constitutes proof of service, therefore you do not need to file separate proof of service for registered parties. If you are serving some parties through eFS but others (such as *pro se* parties not registered on eFS) through conventional means, you must file an affidavit of service for each party served conventionally. Minn. Gen. R. Prac. 14.03(d).

Keep in mind attorneys may not use eFS as initial service to commence an ordinary civil action. Minn. R. Gen. Prac. 14.03(d). Personal service, publication, or acknowledged mail service of the summons and complaint are still required to properly commence an action. Minn. R. Civ. P. 3.01, 4. Other limitations for service by eFS are: serving the summons or counterclaim on the defendant in conciliation court; serving petitions appointing guardians or conservators; and service of upon the respondent in commitment proceedings. Minn. Gen. R. Prac. 508; Minn. Stat. §§ 524.5-308, 524.4-404; Minn. Comm. & Tr. Act R. 8.

If the recipient consents to service by any electronic means (like e-mail), then that medium of electronic service is acceptable under Minn. R. Gen. Prac. 14.03(d)(2). However, make sure your documents comply with the formatting requirements in the Minnesota District Court Registered User Guide for Electronic Filing.

3. Restricted Identifiers

A restricted identifier is confidential, highly sensitive personal information that identifies an individual, such as a social security number or bank account numbers. Minn. Gen. R. Prac. 11.01. Because the Court suspected that some parties were intentionally filing restricted identifiers in public court documents, the Court revised the rules regarding restricted identifiers and also increased the penalties for rule violations. *See* Minn. Gen. R. Prac. 11.04.

The filer has the primary responsibility for compliance with the ban on filing restricted identifiers. Minn. Gen. R. Prac. 11 applies to all documents filed with the court. eFS requires filers to check a box certifying compliance with the requirement that any restricted identifiers in any filed documents have been submitted in a confidential manner, as outlined in Minn. Gen. R. Prac. 11. Thus, make sure to double-check your documents before submission because the Court has the discretion to sanction anyone who violates Rule 11. *See* Minn. R. Civ. P. 11.02(e).

If court staff discovers restricted identifiers filed in a publicly accessible document, they will re-designate the document as confidential, direct the filer to redact the restricted identifiers, and refile. Minn. R. Gen. Prac. 11.04. At that point, you have 21 days either to redact and refile or to move for relief from the judge. If you fail to take action, court staff may strike the offending document from the record. If you wish to have an offending document refiled and related back to the original filing date, you must file a motion requesting permission to do so. Minn. R. Civ. P. 5.04.

4. Proposed Orders

Lawyers have been accused of abusing proposed orders by forging a Judge's signature and misrepresenting the proposed order as an actual order. Thanks to these bad actors, the court system seriously considered doing away with proposed orders altogether. However, the practice has been saved because a sufficient number of judges determined the utility of proposed orders outweighs their potential for abuse. As a compromise, proposed orders submitted through eFS will not be time-stamped, nor will court staff make certified copies of any proposed orders. Minn. Gen. R. Prac. 14.03(b), 14.07; Minn. R. Civ. P. 5.06.

5. Filing Deadline

The Court amended Minn. R. Civ. P. 6.05 to make it clear that the 5:00 p.m. deadline for service without resulting in additional time to respond means 5:00 p.m. Central time.

6. Signature Blocks

All signature blocks must include the e-mail address of the signer. If you electronically sign a document, the proper form is “/s/ Jane Doe.” Minn. R. Civ. P. 11.01.

7. Issuance of Subpoena in Minnesota for Out-of-State Litigation

The Court added a procedure for issuing subpoenas in Minnesota to compel the taking of depositions here for use in foreign litigation. Minn. R. Civ. P. 45.06. The new rule is based on the Uniform Interstate Deposition and Discovery Act.

8. Notarization No Longer Required in Some Circumstances

Affidavits and interrogatory answers no longer need to be notarized in order to accommodate the large numbers of *pro se* litigants who have difficulty finding notaries. Minn. R. Gen. Prac. 14.04(c), 15; Minn. R. Civ. P. 33.01. An affidavit or interrogatory answer will be valid if (1) it has the affiant's signature immediately below this language: "I declare under penalty of perjury that everything I have stated in this document is true and correct;" and (2) the date of the signing, as well as the county and state where the document was signed are noted on the document.

9. In Camera Review of Documents

You must seek and obtain advance approval from the court, with notice of the request to all parties, in order to submit a document to the court for *in camera* review. Minn. R. Gen. Prac. 14.06.

10. Pagination of All Filings

All documents that are either filed with the court or exhibits offered at trial must be consecutively paginated throughout. Minn. R. Gen. Prac. 16. This rule is modeled after the federal court docket and appellate appendix. Page 1 is the first page of the document, and the last number is the last page of the last attachment or exhibit. Place the page number at the bottom center or bottom right of the page.

Conclusion

As new lawyers, learning the rules and how to strategically apply them to our cases can be difficult and stressful. Keeping on top of new rule changes is one way to reduce this stress. Hopefully this article has shed some light on rule changes that will be helpful in your practice. If you need more information, David Herr prepared excellent CLE materials, which you can find at the Hennepin County Law Library.

Ashleigh Leitch is a litigator specializing in labor and employment law and appellate advocacy at Best & Flanagan, LLP, in Minneapolis, Minnesota. She also serves on the Board of Directors for the Minnesota Justice Foundation (MJF).

