

STATE OF MINNESOTA  
IN SUPREME COURT  
CX-89-1863

DEC 23 2008

FILED

PROMULGATION OF AMENDMENTS  
TO THE MINNESOTA GENERAL RULES OF PRACTICE  
FOR THE DISTRICT COURTS

**ORDER**

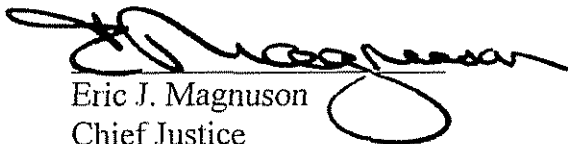
In its report filed September 25, 2008, the Supreme Court Advisory Committee on the General Rules of Practice recommended amendments to the General Rules of Practice for the District Courts and the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act. This Court established a deadline of November 26, 2008, for submitting comments on the proposal. The Supreme Court has reviewed the proposals and the submitted comments, and is fully advised in the premises.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached amendments to the General Rules of Practice for the District Courts and the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act be, and the same hereby are, prescribed and promulgated to be effective on March 1, 2009.
2. The attached amendments shall apply to all actions pending on the effective date and to those filed thereafter.
3. The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the comments made therein.
4. The order of this court dated December 19, 2008, contained several typographical errors and is superseded to the extent inconsistent herewith.

DATED: December 22, 2008

BY THE COURT:

  
Eric J. Magnuson  
Chief Justice

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

[Note to publishers: Deletions are indicated by a line drawn through the text; additions are underlined.]

**RULE 8. INTERPRETERS**

\* \* \*

**Rule 8.13. Requirement for Notice of Anticipated Need for Interpreter**

In order to permit the court to make arrangements for the availability of required interpreter services, parties shall, in the Informational Statement or Joint Statement of the Case, and as may otherwise be required by court rule or order, advise the court of that need in advance of the hearing or trial where services are required.

When it becomes apparent that previously-requested interpreter services will not be required, the parties must advise the court.

**Advisory Committee Comment—2008 Amendment**

Making a qualified interpreter available when needed in court often requires difficult prearrangement. Rule 8.13 is a simple rule drawing the attention of litigants to the likelihood they will encounter specific court rules or orders requiring identification of interpreter needs in advance of the need. See amendments to Rules 111.02, 111.03, 112.02, Forms 111.02 & 112.01, and Minnesota Civil Trialbook sections 5 & 11.

The second paragraph of the rule contains an obvious corollary: when it becomes clear that interpreter services will no longer be required, notice must be given to permit the court to avoid the expense that would otherwise be incurred. This notice would be required if a trial or hearing were obviated by settlement, and the requirement of notice is similar to that required by MINN. GEN. R. PRAC. 115.10 for the settlement of a motion, which would obviate a hearing and the court's preparation for the hearing.

**RULE 11. SCHEDULING OF CASES**

**Rule 111.02. The Party's Informational Statement**

30           Within sixty days after an action has been filed, each party shall submit, on  
31 a form to be available from the court (see form 111.02 appended to these rules),  
32 the information needed by the court to manage and schedule the case. The  
33 information provided shall include:

- 34           (a) The status of service of the action;
- 35           (b) Whether the statement is jointly prepared;
- 36           (c) Description of case;
- 37           (d) Whether a jury trial is requested or waived;
- 38           (e) Discovery contemplated and estimated completion date;
- 39           (f) Whether assignment to an expedited, standard, or complex track is  
40 requested;
- 41           (g) The estimated trial time;
- 42           (h) Any proposals for adding additional parties;
- 43           (i) Other pertinent or unusual information that may affect the scheduling or  
44 completion of pretrial proceedings;
- 45           (j) Recommended alternative dispute resolution process, the timing of the  
46 process, the identity of the neutral selected by the parties or, if the neutral has not  
47 yet been selected, the deadline for selection of the neutral. If ADR is believed to  
48 be inappropriate, a description of the reasons supporting this conclusion;
- 49           (k) A proposal for establishing any of the deadlines or dates to be included  
50 in a scheduling order pursuant to Minn. Gen. R. Prac. 111.03; and
- 51           (l) Identification of interpreter services (specifying language and, if known,  
52 particular dialect) any party anticipates will be required for any witness or party.

53  
54 **Rule 111.03. Scheduling Order**

55           (a) **When Issued.** No sooner than sixty days and no longer than ninety  
56 days after an action has been filed, the court shall enter its scheduling order. The

57 court may issue the order after either a telephone or in-court conference, or  
58 without a conference or hearing if none is needed.

59 (b) **Contents.** The scheduling order shall provide for alternative dispute  
60 resolution as required by Rule 114.04(c) and shall establish a date for completion  
61 of discovery. The order may also establish any of the following:

62 (1) Deadlines for joining additional parties, whether by  
63 amendment or third-party practice;

64 (2) Deadlines for bringing non-dispositive or dispositive  
65 motions;

66 (3) Deadlines or specific dates for submitting particular  
67 issues to the court for consideration;

68 (4) A deadline for completing any independent physical,  
69 mental or blood examination pursuant to Minn. R. Civ. P. 35;

70 (5) A date for a formal discovery conference pursuant to  
71 Minn. R. Civ. P. 26.06, a pretrial conference or conferences  
72 pursuant to Minn. R. Civ. P. 16, or a further scheduling  
73 conference.

74 (6) Deadlines for filing any pre-trial submissions,  
75 including proposed instructions, verdicts, or findings of fact,  
76 witness lists, exhibits lists, statements of the case or any  
77 similar documents;

78 (7) Whether the case is a jury trial, or court trial if a jury  
79 has been waived by all parties;

80                   (8) Identification of interpreter services (specifying  
81                   language and, if known, particular dialect) any party  
82                   anticipates will be required for any witness or party;

83                   (89) A date for submission of a Joint Statement of the Case  
84                   pursuant to Minn. Gen. R. Prac. 112; or

85                   (910) A trial date.

86

87                   Advisory Committee Comment—2008 Amendment

88                   Rules 111.02(7) and 111.03(b)(8) are new provisions, adopted as part of  
89                   amendments designed to foster earlier gathering of information about the  
90                   potential need for interpreter services in a case, either for witnesses or for a  
91                   party. See MINN. GEN. R. PRAC. 8.13.

92                   **RULE 112. JOINT STATEMENT OF THE CASE**

93

94                   \* \* \*

95                   **Rule 112.02. Contents**

96                   The Joint Statement of the Case shall contain the following information to  
97                   the extent applicable:

98                   (a) a statement that all parties have been served, that the case is at issue,  
99                   and that all parties have joined in the filing of the Statement of the Case.

100                   (b) an estimated trial time.

101                   (c) whether a jury trial has been requested, and if so, by which party.

102                   (d) counsels' opinion whether the case should be handled as an expedited,  
103                   standard, or complex case (determination to be made by the court).

104                   (e) a concise statement of the case indicating the facts that Plaintiff(s)  
105                   intend to prove and the legal basis for all claims.

106                   (f) a concise statement of the case indicating the facts that Defendant(s)  
107                   intend to prove and the legal basis for all defenses and counterclaims.

108 (g) names and addresses of all witnesses known to the lawyer or client who  
109 may be called at the trial by each party, including expert witnesses and the  
110 particular area of expertise each expert will be addressing. If any witness or party  
111 is likely to require interpreter services, that fact and the nature of the required  
112 services (specifying language and, if known, particular dialect) shall be provided.

113

114 **Advisory Committee Comment—2008 Amendment**

115 Rule 112.02 is amended to include a provision designed to foster earlier  
116 gathering of information about the potential need for interpreter services in a  
117 case, either for witnesses or for a party. See MINN. GEN. R. PRAC. 8.13.

118

119 **FORM 111.02. INFORMATIONAL STATEMENT (Civil Matters--Non-Family)**

120  
121 State of Minnesota

District Court

122  
123 COUNTY

122  
123 JUDICIAL DISTRICT CASE NO

124  
125 Case Type: \_\_\_\_\_

126  
127 \_\_\_\_\_  
128 Plaintiff

129 and

**INFORMATIONAL STATEMENT FORM**

130  
131 \_\_\_\_\_  
132 Defendant

- 133 1. All parties (have) (have not) been served with process.
- 134 2. All parties (have) (have not) joined in the filing of this form.
- 135 3. Brief description of the case: \_\_\_\_\_
- 136 \_\_\_\_\_
- 137 \_\_\_\_\_
- 138 \_\_\_\_\_

139 4. It is estimated that the discovery specified below can be completed within \_\_\_\_ months  
140 from the date of this form. (Check all that apply, and supply estimates where indicated.)

- 141 a. Factual Depositions No \_\_\_\_ Yes \_\_\_\_, estimated number: \_\_\_\_\_
- 142 b. Medical Evaluations No \_\_\_\_ Yes \_\_\_\_, estimated number: \_\_\_\_\_
- 143 c. Experts Subject to Discovery No \_\_\_\_ Yes \_\_\_\_, estimated number: \_\_\_\_\_

144 5. Assignment as an \_\_\_\_ expedited \_\_\_\_ standard \_\_\_\_ complex case is requested. (If not  
145 standard case assignment, include brief statement setting forth the reasons for the request.)

- 146 \_\_\_\_\_
- 147 \_\_\_\_\_
- 148 6. The dates and deadlines specified below are suggested.
- 149 a. \_\_\_\_\_ Deadline for joining additional parties, whether by amendment or third
- 150 party practice.
- 151 b. \_\_\_\_\_ Deadline for bringing non-dispositive motions.
- 152 c. \_\_\_\_\_ Deadline for bringing dispositive motions.
- 153 d. \_\_\_\_\_ Deadline for submitting \_\_\_\_\_ to the court.
- 154 (specify issue)
- 155 e. \_\_\_\_\_ Deadline for completing independent physical examination
- 156 pursuant to Minn.R.Civ.P. 35
- 157 f. \_\_\_\_\_ Date for formal discovery conference pursuant to Minn. R. Civ. P. 26.06
- 158 g. \_\_\_\_\_ Date for pretrial conference pursuant to Minn. R. Civ. P. 16.
- 159 h. \_\_\_\_\_ Date for scheduling conference.
- 160 i. \_\_\_\_\_ Date for submission of a Joint Statement of the Case pursuant to
- 161 Minn. Gen. R. Prac. 112.
- 162 j. \_\_\_\_\_ Trial Date.
- 163 k. \_\_\_\_\_ Deadline for filing (proposed instructions), (verdicts), (findings of fact),
- 164 (witness list), (exhibit list).
- 165 l. \_\_\_\_\_ Deadline for \_\_\_\_\_ (specify)

166 7. Estimated trial time: \_\_\_\_\_ days \_\_\_\_\_ hours (estimates less than a day must be  
167 stated in hours).

168 8. A jury trial is: ( ) waived by consent of \_\_\_\_\_ pursuant to R. Civ. P. 38.02.  
169 (specify party)  
170 ( ) requested by \_\_\_\_\_. (NOTE: Applicable fee must be enclosed.)  
171 (specify party)

172 9. a. Meeting: Counsel for the parties met on \_\_\_\_\_ to discuss case  
173 management issues. (Date)  
174 b. ADR PROCESS (Check one):  
175  Counsel agree that ADR is appropriate and choose the following:  
176  Mediation  
177  Arbitration (non-binding)  
178  Arbitration (binding)  
179  Med-Arb  
180  Early Neutral Evaluation  
181  Moderated Settlement Conference  
182  Mini-Trial  
183  Summary Jury Trial  
184  Consensual Special Magistrate  
185  Impartial Fact Finder  
186  Other (describe) \_\_\_\_\_

187  
188  Counsel agree that ADR is appropriate but request that the Court select the process.  
189  Counsel agree that ADR is NOT appropriate because:  
190  the case implicates the federal or state constitution.  
191  other (explain with particularity) \_\_\_\_\_

192  
193  domestic violence has occurred between the parties.  
194 c. PROVIDER (Check one):  
195  The parties have selected the following ADR neutral:  
196 \_\_\_\_\_  
197  The parties cannot agree on an ADR neutral and request the Court to appoint one  
198  The parties agreed to select an ADR neutral on or before \_\_\_\_\_

199  
200 d. DEADLINE: The parties recommend that the ADR process be completed by \_\_\_\_\_  
201 (Date)

202 10. Please identify any party or witness who will require interpreter services, and describe the  
203 services (specifying language and, if known, particular dialect) needed.  
204 \_\_\_\_\_  
205 \_\_\_\_\_

206  
207 101. Please list any additional information which might be helpful to the court when scheduling  
208 this matter.  
209 \_\_\_\_\_  
210 \_\_\_\_\_

211  
212  
213 Signed: \_\_\_\_\_ Signed: \_\_\_\_\_  
214 Lawyer for (Plaintiff) (Defendant) Lawyer for (Plaintiff) (Defendant)



215 Attorney Reg. #: \_\_\_\_\_ Attorney Reg. #: \_\_\_\_\_  
 216 Firm: \_\_\_\_\_ Firm: \_\_\_\_\_  
 217 Address: \_\_\_\_\_ Address: \_\_\_\_\_  
 218 Telephone: \_\_\_\_\_ Telephone: \_\_\_\_\_  
 219 Date: \_\_\_\_\_ Date: \_\_\_\_\_  
 220

221 **FORM 112.01. JOINT STATEMENT OF THE CASE**

222 \_\_\_\_\_  
 223 State of Minnesota District Court

|        |                            |
|--------|----------------------------|
| COUNTY | JUDICIAL DISTRICT CASE NO. |
|--------|----------------------------|

227  
 228 Case Type: \_\_\_\_\_

229 \_\_\_\_\_  
 230 Plaintiff

231 and

**JOINT STATEMENT OF THE CASE**

232  
 233 \_\_\_\_\_  
 234 Defendant

- 235
- 236 1. All parties have been served with process. The case is at issue and all parties have joined in  
 237 the filing of this Joint Statement of the Case.
  - 238 2. Estimated trial time: \_\_\_ days \_\_\_ hours (estimates less than a day must be stated in hours).
  - 239 3. Jury is requested by the \_\_\_ plaintiff \_\_\_ defendant. [If this is a change from a court to a jury  
 240 request, then a \$30 fee must be paid when filing this document.]
  - 241 4. Concise statement of the case including facts plaintiff(s) intend to prove and legal basis for claims:  
 242 \_\_\_\_\_  
 243 \_\_\_\_\_  
 244 \_\_\_\_\_
  - 245 5. Concise statement of the case indicating facts defendant(s) intend to prove and legal basis for  
 246 defenses and counterclaim:  
 247 \_\_\_\_\_  
 248 \_\_\_\_\_  
 249 \_\_\_\_\_
  - 250 6. List the names and addresses of witnesses known to either party that either party may call.  
 251 Indicate the party who expects to call the witness and whether the party intends to qualify that  
 252 witness as an expert. (Attach additional sheets if necessary.)

| Party | Name/Addresses of Witnesses | Please Indicate if Expert Witness |
|-------|-----------------------------|-----------------------------------|
| _____ | _____                       | Yes                               |
| _____ | _____                       | Yes                               |
| _____ | _____                       | Yes                               |

258 7. Identify any party or witness who will require interpreter services, and describe the services  
259 (specifying language, and, if known, particular dialect) needed.

260 \_\_\_\_\_  
261 \_\_\_\_\_

262  
263 78. In claims involving personal injury, attach a statement by each claimant, whether by  
264 *complaint or counterclaim*, setting forth a detailed description of claimed injuries and an  
265 itemized list of special damages as required by the rule. Indicate whether parties will  
266 exchange medical reports.

267 89. In claims involving vehicle accidents, attach a statement describing the vehicles with  
268 information as to ownership and the name of insurance carriers, if any.

269 [Signature Blocks]

270

271 (If more space is needed to add additional information or parties, attach a separate sheet typed in  
272 the same format.)

273 The undersigned counsel have met and conferred this \_\_\_\_\_ day of \_\_\_\_\_ and certify  
274 the foregoing is true and correct.

275

276

277

\_\_\_\_\_  
Signature

278

279

\_\_\_\_\_  
Signature

280

281

\_\_\_\_\_  
Signature

282

283

\_\_\_\_\_  
Signature

284

285 **PART H. MINNESOTA CIVIL TRIALBOOK**

286 **Section 5. Pre-Trial Conferences**

287 \* \* \*

288 (d) **Pre-trial Chambers Conferences.** At an informal chambers  
289 conference before trial the trial court shall:

290 (1) determine whether settlement possibilities have been  
291 exhausted;

292 (2) determine whether all pleadings have been filed;

293 (3) ascertain the relevance to each party of each cause of  
294 action; and,

295 (4) with a view to ascertaining and reducing the issues to  
296 be tried, shall inquire:

297 (i) whether the issues in the case may be narrowed or  
298 modified by stipulations or motions;

299 (ii) whether dismissal of any of the causes of actions or  
300 parties will be requested;

301 (iii) whether stipulations may be reached as to those facts  
302 about which there is no substantial controversy;

303 (iv) whether stipulations may be reached for waiver of  
304 foundation and other objections regarding exhibits,  
305 tests, or experiments;

306 (v) whether there are any requests for producing evidence  
307 out of order;

308 (vi) whether motions in limine to exclude or admit  
309 specified evidence or bar reference thereto will be  
310 requested; and

311 (vii) whether there are any unusual or critical legal or  
312 evidentiary issues anticipated;

313 (5) direct the parties to disclose the number and names of  
314 witnesses they anticipate calling, and to make good faith  
315 estimates as to the length of testimony and arguments;

316 (6) direct the parties to disclose whether any party or  
317 witness requires interpreter services and, if so, the nature of  
318 the interpreter services (specifying language and, if known,  
319 particular dialect) required;

320 (67) inquire whether the number of experts or other  
321 witnesses may be reduced;

322 (78) ascertain whether there may be time problems in  
323 presentation of the case, e.g., because of other commitments  
324 of counsel, witnesses, or the court and advise counsel of the  
325 hours and days for trial; and

326 (89) ascertain whether counsel have graphic devices they  
327 want to use during opening statements; and

328 (910) ascertain whether a jury, if previously demanded, will  
329 be waived. If a jury is requested, the judge shall make  
330 inquiries with a view to determining:

331 (i) the areas of proposed voir dire interrogation to be  
332 directed to prospective jurors, and whether there is any

333 contention that the case is one of "unusual  
334 circumstances";

335 (ii) the substance of a brief statement to be made by the  
336 trial court to the prospective jurors outlining the case,  
337 the contentions of the parties, and the anticipated  
338 issues to be tried;

339 (iii) the number of alternate jurors (it is suggested that the  
340 identity of the alternates not be disclosed to the jury);  
341 and

342 (iv) in multiple party cases, whether there are issues as to  
343 the number of "sides" and allocation of peremptory  
344 challenges.

345 \* \* \*

346 **Advisory Committee Comment—2008 Amendment**

347 Section 5(d)(6) is new, added to reflect the amendments to Rules  
348 111.02(f), 111.03(b)(8), and 112.02(g), requiring earlier disclosure of  
349 information about the potential need for interpreter services in a case, either for  
350 witnesses or for a party. See MINN. GEN. R. PRAC. 8.13.

351  
352 **Section 11. Interpreters**

353 The party calling a witness for whom an interpreter is required shall advise  
354 the court ~~in advance~~ in the Informational Statement or Joint Statement of the Case  
355 of the need for an interpreter and interpreter services (specifying language and, if  
356 known, particular dialect) expected to be required. Parties shall not use a relative  
357 or friend as an interpreter in a contested proceeding, except as approved by the  
358 court.

359  
360 **Advisory Committee Comment—2008 Amendment**

361 This section is amended to incorporate the amendments to Rules  
362 111.02(f), 111.03(b)(8), and 112.02(g), requiring earlier disclosure of

363  
364

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.

365 **Rule 12. Requirement for Comparable Means of Service**

366 In all cases, a party serving a paper on a party and filing the same paper  
367 with the court must select comparable means of service and filing so that the  
368 papers are delivered substantially contemporaneously. This rule does not apply to  
369 service of a summons or a subpoena.

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

372

373 **Advisory Committee Comment—2008 Amendment**

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

384

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

386

387       \* \* \*

388       **Rule 119.05. Attorney Fees in Default Proceedings**

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

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

397                       (2) the requesting party's pleading includes a claim for  
398 attorney fees in an amount greater than or equal to the amount  
399 sought upon default; and

400                       (3) the defaulting party, after default has occurred, has  
401 been provided notice of the right to request a hearing under  
402 section (c) of this rule, a form for making such a request  
403 substantially similar to *Form 119.05 as published by the state*  
404 *court administrator*, and the affidavit required under Rule  
405 119.02.

406       \* \* \*

407               (c) A defaulting party may request a hearing and further judicial review of  
408 the attorneys' fees requested by completing a "Request for Hearing" provided by  
409 the plaintiff substantially similar to *Form 119.05 as published by the state court*  
410 *administrator*. A party may serve the form, at any time after a default has  
411 occurred, provided that the defaulting party is given at least twenty (20) days



412 notice before the request for judgment is made. A defaulting party must serve the  
413 Request for Hearing upon the requesting party or its counsel within twenty (20)  
414 days of its receipt. Upon timely receipt of a Request for Hearing the party seeking  
415 fees shall request a judicial assignment and have the hearing scheduled.

416 \* \* \*

417

418 Advisory Committee Comment—2008 Amendment

419 Rule 119.05 is amended to remove Form 119.05 from the rules, and to  
420 permit the maintenance and publication of the form by the state court  
421 administrator. The form, together with other court forms, can be found at  
422 <http://www.mncourts.gov/>.  
423

424 [Form 119.05 is to be deleted from the Rules and published by the State  
425 Court Administrator; the deletion is not shown in strikeout underline format to  
426 conserve space]

427 **RULE 702. BAIL**

428

429 \* \* \*

430 **(d) Posting Bonds.** Before any person is released on bond, the bond must  
431 be approved by a judge after submission to the prosecuting lawyer for approval of  
432 form and execution and filed with the court administrator during business hours or  
433 thereafter with the custodian of the jail. In cases where bail has been set by the  
434 court and the defendant has provided a bail bond with corporate surety, approval  
435 by a judge is unnecessary if the bond conforms to Form 702 as published by the  
436 state court administrator.

437 \* \* \*

438

439 Advisory Committee Comment—2008 Amendment

440 Rule 702(d) is amended to remove Form 702 from the rules, and to  
441 permit the maintenance and publication of the form by the state court  
442 administrator. The form, together with other court forms, can be found at  
443 <http://www.mncourts.gov/>.  
444

445 [Form 702 is to be deleted from the Rules and published by the State Court  
446 Administrator; the deletion is not shown in strikeout underline format to conserve  
447 space.]

448

449 **RULE 131 USE OF INTERACTIVE VIDEO TELECONFERENCE**  
450 **IN CIVIL CASES**

451

452 **Rule 131.01. Definitions.**

453 (a) “ITV” refers to interactive video teleconference.

454 (b) A “terminal site” is any location where ITV is used for any portion of a  
455 court proceeding.

456 (c) The “venue county” is the county where pleadings are filed and  
457 hearings are held under current court procedures.

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

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

464 (a) **Scheduling Conflicts.** All scheduling conflicts and priorities shall be  
465 determined by the judge(s).

466 (b) **Use of ITV on Court’s Initiative; Notice.** If the court on its own  
467 initiative orders the use of live audio-visual means (ITV) to conduct hearings and  
468 proceedings, it shall give notice in accordance with the Rules of Civil Procedure  
469 and General Rules of Practice, which notice shall advise the parties of the duty to  
470 exchange information under Rule 131.04, and the prohibition on recording in Rule  
471 131.06(i).

472 **(c) Use of ITV Upon Stipulation.** The parties may, subject to court  
473 approval and site availability, stipulate that a hearing or proceeding be conducted  
474 by ITV in accordance with the procedures established in this rule. The parties  
475 shall contact the court administrator as soon as possible to permit scheduling of  
476 ITV facilities. A written, signed stipulation requesting the use of ITV shall be  
477 filed with the court at least 24 hours prior to the date set for the ITV hearing or  
478 proceeding. The stipulation shall be substantially in the form set forth in the  
479 Stipulation and Approval form as published by the state court administrator. The  
480 parties are responsible for making arrangements to use any site that is outside the  
481 control of the court in the venue county, for providing the necessary contact  
482 information to the court administrator, and for ensuring the compatibility of the  
483 equipment.

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

485 (1) **Request.** Any party may, by motion, request the use  
486 of ITV for a hearing or proceeding in accordance with this  
487 rule. No motion for use of ITV shall be heard until the  
488 moving party serves a copy of the motion on the opposing  
489 counsel and files the original with the court administrator at  
490 least seven (7) days prior to the scheduled hearing or  
491 proceeding for which ITV use is requested. The moving  
492 party may, ex parte, contact the court for an expedited hearing  
493 date on the motion for use of ITV and for waiver of the usual  
494 notice of hearing. The moving party is responsible under  
495 Rule 131.02(c) for making arrangements to use any site that is  
496 outside the control of the court in the venue county, for  
497 providing the necessary contact information to the court  
498 administrator, and for ensuring the compatibility of the  
499 equipment. The motion shall include, as an attachment, a  
500 notice advising the other parties of their right to object to use

501 of ITV, the consequences of failing to timely file an  
502 objection, the duty to exchange information under Rule  
503 131.04, and the prohibition on recording in Rule 131.06(i). A  
504 sample notice is published by the state court administrator.

505 (2) **Objection.** Any party objecting to a motion for use of  
506 ITV may file and serve a response to the motion 48 hours  
507 prior to the hearing on the motion for use of ITV.

508 (3) **Burden of Proof.** The moving party must establish  
509 good cause for use of ITV by a preponderance of the  
510 evidence.

511 (4) **Good Cause.** The Court shall consider the following  
512 factors to determine “good cause”:

513 (i) Whether a timely objection has been made;

514 (ii) Whether any undue surprise or prejudice would result;

515 (iii) The convenience of the parties, counsel, and the court;

516 (iv) The cost and time savings;

517 (v) The importance and complexity of the proceeding;

518 (vi) Whether the proponent has been unable, after due  
519 diligence, to procure the physical presence of a  
520 witness;

521 (vii) The convenience to the parties and the proposed  
522 witness, and the cost of producing the witness in  
523 relation to the importance of the offered testimony;

524 (viii) Whether the procedure would allow effective cross-  
525 examination, especially where documents and exhibits  
526 available to the witness may not be available to  
527 counsel;

528 (ix) Whether the surroundings maintain the solemnity and  
529 integrity of the proceedings and thereby impress upon  
530 the witness the duty to testify truthfully;

531 (x) Whether the witness is presently in prison or  
532 incarcerated; and,

533 (xi) Such other factors as the court may, in each individual  
534 case, determine to be relevant.

535 (5) **Emergency Circumstances.** The court may shorten  
536 the time periods provided in this rule 131.02(d) upon a  
537 showing of good cause.

538 (6) **Determination.** If the use of ITV is thereafter allowed  
539 and ordered by the court, the hearing shall proceed, by ITV,  
540 in accordance with the provisions of this rule. If the court  
541 determines that good cause for the use of ITV has not been  
542 established, the hearing or proceeding shall be heard as  
543 provided by the Rules of Civil Procedure and General Rules  
544 of Practice.

545 **Rule 131.03. Costs and Arrangements; Certification**

546

547 (a) **Costs.** The party or parties, other than the court, requesting use of ITV  
548 for any hearing or proceeding shall be responsible for any additional use or other

549 fees over and above those normally incurred by the venue county in connecting  
550 from one court site to another court site within the district or collaboration area.

551 **(b) Arrangements.** If the court on its own initiative orders ITV, the court  
552 shall, through the court administrator where the case is venued, establish and make  
553 arrangements to carry out the ITV procedures required in order for the court to  
554 hear the case as an ITV hearing or proceeding. In all other cases it will be the  
555 responsibility of the party requesting the use of ITV to contact the court  
556 administrator where the case is venued who shall, working with the judge  
557 assigned, establish a hearing date and time so that the case may be scheduled as an  
558 ITV hearing or proceeding. The court and counsel shall use reasonable efforts to  
559 confer with one another in scheduling ITV hearings or proceedings so as not to  
560 cause, delay or create scheduling conflicts.

561 **(c) Service.** The moving party shall have the responsibility of preparing,  
562 servicing and filing the motion and notice of motion papers as required by this rule.

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

568 **Rule 131.04. Exchange of information.**

569 Whenever ITV is to be used to conduct a hearing or proceeding, evidentiary  
570 exhibits shall be exchanged with all other parties and submitted to the court, as  
571 appropriate, prior to the commencement of the hearing or proceeding.

572 **Rule 131.05. Location of Participants.**

573 During the ITV hearing:

574 (a) The judge may be at any terminal site.

575 (b) The court clerk shall be in the venue county unless otherwise  
576 authorized by the presiding judge.

577 (c) Except as otherwise provided in rule 131.05(d) regarding commitment  
578 proceedings, counsel for the parties shall be present at the site from which the  
579 party they represent will participate in the hearing, unless the court approves  
580 another location prior to the hearing, and witnesses and other interested parties  
581 may be located at any terminal site that will allow satisfactory video and audio  
582 reception at all other sites.

583 (d) In commitment proceedings, the respondent's attorney shall be present  
584 at the ITV site from which the respondent will participate in the proceedings.

585 **Rule 131.06. Proceedings.**

586 In any proceeding conducted by ITV under this rule:

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

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

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

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

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

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

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

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

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

616 **Rule 131.07. Administrative Procedures.**

617 The following administrative procedures are applicable to all ITV  
618 proceedings:

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

623 **(b) Court Administrator Duties.** The Court Administrator for each  
624 county shall be responsible for the following:

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



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

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

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

638 (5) Ensure that any court documents or exhibits that the  
639 judge will require prior to or during the course of the hearing  
640 are mailed or faxed to the judge prior to commencement of  
641 the hearing.

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

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

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

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

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

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

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

662

663                   **Advisory Committee Comments—2008 Amendment**

664                   In October 1999 the Supreme Court informally approved the use of ITV  
665                   in civil cases but did not adopt any specific rules. The addition of Rule 131 in  
666                   2008 is intended to provide a uniform procedure permitting the use of  
667                   interactive video conferencing (ITV) to conduct hearings and admit oral  
668                   testimony in civil cases. It is based on protocols developed and implemented  
669                   for a pilot project in the Ninth Judicial District and later tweaked by a  
670                   subcommittee of the Court's former Technology Planning Committee. The  
671                   success of the pilot project is reported in NATIONAL CENTER FOR STATE  
672                   COURTS, COURT SERVICES DIVISION, ASSESSMENT OF THE INTERACTIVE  
673                   TELEVISION PROGRAM IN THE NINTH JUDICIAL DISTRICT OF MINNESOTA (Sept.  
674                   1999).

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

682                   Rule 131.02(b) recognizes that when a court orders the use of ITV on its  
683                   own initiative, the court must notify the parties of the use of ITV. Notices are to  
684                   be in accordance with rules of civil procedure and the general rules of practice.  
685                   Once an order is filed, MINN. R. CIV. P. 77.04 requires the court administrator  
686                   to serve notice of the order immediately by mail, and MINN. GEN. R. PRAC. 1.03  
687                   requires that service be made on a party's attorney if represented, otherwise on  
688                   the party directly. The notice of ITV use may also be incorporated into a  
689                   scheduling order issued under MINN. GEN. R. PRAC. 111.03. Regardless of the  
690                   precise mechanism, the notice of ITV use must include the information  
691                   required in Rule 131.02(b). A sample notice is set forth for publication by the  
692                   state court administrator.

693                   Parties may, subject to court approval, stipulate to the use of ITV under  
694                   rule 131.02(c). Upon reaching a stipulation, the parties must contact the court  
695                   administrator as soon as possible to obtain a date and time for the ITV hearing.  
696                   Failure to provide adequate lead time may result in rejection of the stipulation.  
697                   The parties are responsible for making arrangements to use any site that is  
698                   outside the control of the court in the venue county. Parties should be aware  
699                   that use of court and other governmental terminal sites might be subject to  
700                   collaboration agreements entered into between courts and other government  
701                   agencies. This may limit the availability of, or control the costs of using or

702 accessing certain terminal sites, particularly those outside the county or district  
703 where the action is venued or outside the state's dedicated MNET network.  
704 Under Rule 131.03 parties requesting use of ITV for any hearing or proceeding  
705 are responsible for any additional use or other fees over and above those  
706 normally incurred by the venue county in connecting from one collaboration  
707 site to another. Parties are also responsible for ensuring compatibility of  
708 equipment for sites outside the control of the venue county.

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

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

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

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

748 Rule 131.03 places responsibility for costs and site arrangements with  
749 those seeking to use ITV. The court assumes this responsibility when ordering  
750 ITV on its own initiative, as is done for the bulk of the ITV proceedings in the  
751 Ninth Judicial District pilot project. When a party or parties initiate the  
752 request, however, Rules 131.02(c) and 131.02(d) shift some of the  
753 responsibility to the requesting party or parties. Parties also certify that they  
754 will comply with the protocol, including the prohibition in Rule 131.06(i)  
755 against recording ITV sessions.

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

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

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

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

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

## 793 **RULE 708. ITV IN CRIMINAL CASES.**

794  
795 Use of ITV in criminal cases is governed by the rules of criminal procedure  
796 and rule 131.07 of these rules.

### 797 **Advisory Committee Comments—2008 Amendment**

798  
799 On November 19, 2007, the Supreme Court issued an order promulgating  
800 MINN. R. CRIM. P. 1.05 governing the use of interactive video teleconference  
801 (ITV) in criminal proceedings. The order referred the task of developing rules  
802 governing the administrative procedures for conducting ITV hearings in  
803 criminal matters to the Advisory Committee on General Rules of Practice for  
804 the District Courts. In the interim, the Court ordered the State Court  
805 Administrator to develop temporary administrative procedures. The  
806 administrative procedures are set forth in Rule 131.07 of the General Rules of  
807 Practice for the District Courts

**Amendments to the Special Rules of Procedure Governing Proceedings  
under the Minnesota Commitment and Treatment Act:**

808 **Rule 14      Location of Hearing, Rules of Decorum, Alternative Methods of**  
809 **Presenting Evidence**

810

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

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

827

828 **General Rules of Practice Advisory Committee Comment—2008 Amendment**

829           Rule 14 is amended to lengthen the amount of notice required to be given  
830 by a litigant desiring to have a matter heard by electronic means, typically  
831 either telephone or interactive television. The seven days required by the rule  
832 can be adjusted by the court if necessary

833