

STATE OF MINNESOTA

OFFICE OF
APPELLATE COURTS

IN SUPREME COURT

NOV 20 2013

ADM09-8006

FILED

**ORDER ESTABLISHING DEADLINE FOR SUBMITTING COMMENTS ON
PROPOSED AMENDMENTS TO THE MINNESOTA RULES OF CIVIL
APPELLATE PROCEDURE**

The Supreme Court Advisory Committee on the Rules of Civil Appellate Procedure has proposed amendments to the Rules of Civil Appellate Procedure to accommodate electronic filing and electronic service in the appellate courts, and amendments to streamline the appellate process. The court will consider the proposed amendments without a hearing after soliciting and reviewing comments on the proposed amendments. A copy of the Committee's report and the proposed amendments are attached to this order.

IT IS HEREBY ORDERED that any individual wishing to provide comments in support of or opposition to any of the proposed amendments shall submit five copies in writing addressed to AnnMarie O'Neill, Clerk of Appellate Courts, 305 Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Boulevard, Saint Paul, Minnesota 55155, no later than December 31, 2013.

Dated: November 20, 2013

BY THE COURT:



Alan C. Page
Associate Justice

FILED

November 15, 2013

**OFFICE OF
APPELLATE COURTS**

No. ADM10-8037

**STATE OF MINNESOTA
IN SUPREME COURT**

In re:

**Supreme Court Advisory Committee on
the Rules of Civil Appellate Procedure**

**Recommendations of Minnesota Supreme Court
Advisory Committee on the
Rules of Civil Appellate Procedure**

**Final Report
November 15, 2013**

**Hon. Jill Flaskamp Halbrooks, Chair
Hon. G. Barry Anderson, Liaison Justice**

**Rita Coyle DeMeules, Supreme Court Commissioner
Cynthia L. Lehr, Chief Attorney, Minnesota Court of Appeals
*Ex Officio***

**Paul A. Banker, Minneapolis
Hon. Louise Dovre Bjorkman, Saint Paul
Rachel F. Bond, Minneapolis
Mark R. Bradford, Minneapolis
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Stephen C. Fiebiger, Burnsville
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Theodora Gaïtas, Minneapolis
Peter W. Gorman, Minneapolis
Erik F. Hansen, Minneapolis**

**Kay Nord Hunt, Minneapolis
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Angela Helseth Kiese, Saint Paul
Mary Catherine Lauhead, Saint Paul
Amy Lawler, Saint Paul
Katherine A. McBride, Minneapolis
David B. Olsen, Minneapolis
Richard E. Prebich, Hibbing
Richard D. Snyder, Minneapolis
Terry W. Viesselman, Fairmont
Charles F. Webber, Minneapolis**

**Michael Johnson, Staff
Sarah Novak, Staff**

**David F. Herr, Minneapolis
Reporter**

Advisory Committee on Rules of Civil Appellate Procedure

EXECUTIVE SUMMARY

Advisory Committee Process Summary

The Court's Advisory Committee on the Rules of Civil Appellate Procedure met three times during 2013 to address the issues presented by the anticipated use of electronic filing and electronic service in the appellate courts. This report represents the strong consensus of the committee on how electronic filing and electronic service can best be implemented in the appellate courts consistent with the anticipated system design.

Summary of Advisory Committee Recommendations

Recommended Rule Amendments

This report contains what is essentially a single integrated set of recommendations for amendments to the rules to accommodate the use of electronic service (e-service) and electronic filing (e-filing) in the Minnesota appellate courts and the expanded availability of electronic records in appellate matters. In reviewing the affected rules, the advisory committee has also identified a few other changes that should be made to the rules to streamline their operation. The changes recommended here range from far-reaching to ministerial. All are related in some way to the e-filing and e-service changes.

These amendments are briefly summarized, with the more dramatic changes listed first:

1. The committee recommends that the appendix be eliminated in all appellate proceedings. This recommendation reflects the view that appendices are often voluminous and by definition duplicate the record. There are costs associated with appendix preparation, and judges and justices report that appendices are often excessively long and unhelpful; with convenient electronic access to the record, they are less important than they once were.

A corresponding change permits the parties to expand the “discretionary” portion of the addendum from 15 to 50 pages.

The appendix would also be replaced with an addendum for petitions for discretionary review (Rule 105), writ applications (Rule 120), petitions for further review (Rule 117), and petitions for accelerated review (Rule 118).

2. The committee recommends that cost bonds not regularly be required for appeals. Cost bonds add expense for the parties, create administrative burdens for both litigants and the courts, and may do so both at the time the appeal is commenced and upon termination. Some of the required processes would only be more complicated in the electronic environment. A party may still ask the trial court to require a bond if special circumstances make that appropriate.
3. Under the amended rules, transcripts will be submitted to the courts only in electronic form in civil appeals from district court. The rules also create a presumption that transcripts will be provided to the parties in electronic form, although they permit a party to request that it instead receive a traditional paper transcript.
4. The rules are amended to remove any requirement that the notice of appeal be accompanied by a certified copy of the order or judgment from which the appeal is taken. The parties are still required to file copies of the as-filed order or judgment with the notice of appeal, but certification of these copies by the court administrator is not required.
5. The advisory committee recommends that the Court consider taking two steps that will greatly facilitate dealing with the record in the electronic context in the absence of appendices, both of which would require referral to a separate committee or workgroup. First, the rules, probably in the Minnesota General Rules of Practice, should specify that all documents in the trial court record, including exhibits, be consecutively paginated before submission to the trial court. (Each document and exhibit would be continuously paginated, including attachments or exhibits to documents.)

Second, the committee believes that it would be a great convenience if a uniform docket form and unique identifiers on

each docket entry would be developed for use in all trial court proceedings. This would allow clear and simple citation to documents in the record by reference to a specific docket number that would be available to the parties and to the court, even if numerous similarly titled documents are filed on a particular day.

Recommendations Not Requiring Rule Amendments

The committee also recommends that some aspects of the electronic filing system for the appellate courts can better be accomplished by system design rather than rule amendment. These recommendations include:

1. The filing system should include a reminder of the importance of redaction and a check-box certification that the filer has reviewed the electronically filed document for confidential or personal identification information. This change will encourage compliance with the requirement for protection of this sensitive information.

The form used in the federal courts' PACER system provides an example of what might be adapted for use in Minnesota:

IMPORTANT NOTICE OF REDACTION

RESPONSIBILITY: All filers must redact: Social Security or taxpayer-identification numbers; dates of birth; names of minor children; financial account numbers; and, in criminal cases, home addresses, in compliance with [Minn. Gen. R. Prac. 11](#). This requirement applies to all documents, including attachments.

I understand that, if I file, I must comply with the redaction rules. I have read this notice.

2. Rule 109, relating to litigants proceeding *in forma pauperis* in the appellate courts, does not require any amendment to accommodate electronic filing. The committee believes it may again be useful to have the filing system ask the user to verify that the requirements for proceeding *in forma pauperis* are met on appeal, or at least to ascertain the basis upon which a party claims a fee waiver is appropriate. This could be accomplished by an inquiry box similar to that recommended for dealing with document confidentiality in the preceding paragraph.

Recommendation for Review of Criminal Rules

As the Court is aware, the Minnesota Rules of Civil Appellate Procedure govern civil appeals and, to a lesser degree, some aspects of criminal appeals. They apply to criminal appeals only where the Minnesota Rules of Criminal Procedure, particularly Rules 28 and 29 of those rules, do not specifically govern a particular issue.

The committee's recommendation for use of electronic transcripts for civil cases should be reviewed by the Court, and possibly its criminal rules advisory committee, to determine the appropriate use of electronic transcripts in criminal appellate proceedings. The committee believes that there are significant issues that warrant attention to the transcript issue for criminal appeals, including the need to provide transcripts to indigent defendants. At a minimum, any order adopting these amendments should make it clear that the provisions relating to the form of the transcript do not apply in criminal proceedings except as otherwise ordered by the Court. Based on its review of the rules, the committee recommends that consideration also be given to a page limit on supplemental pro se briefs permitted by Rule 28.02 of the Rules of Criminal Procedure.

Recommendations for Further Study

The advisory committee limited its attention during the current set of meetings to changes that relate to electronic service and filing, and a few changes that the committee believes can most readily be adopted at this time and without further committee meetings. The Court may at some point want to have the committee conduct a more thorough review of the operation of the appellate rules. The committee will continue to monitor the operation of the rules and the administration of appellate practice in Minnesota. The committee does not intend to meet again until requested to do so by the Court.

The committee does expect, however, that these rules should be reviewed after electronic filing and service have been in place for some period of time to evaluate their utility. The committee also foresees evolution in the courts' e-filing and e-service system, and those changes may also impact the suitability of these rules. In the jargon of the computer world, these e-filing rules should be viewed as "Version 1.0." An upgrade to Version 2.0 may well be needed in the not-too-distant future.

Effective Date

The committee recommends that the effective date of these rules be tailored to the implementation of the pilot project electronic filing and service in the appellate courts. The changes could be adopted as soon as the Court decides on them, because any of the rules dependent on an electronic filing pilot project being in place are phrased in such a way that they would not be operative until a separate adoption order authorizing or requiring electronic filing is in place. Some of the rules, particularly those dealing with the means and date of filing (Rule 125) can be implemented as soon as the Court adopts them. As to the portions that deal with electronic filing, there may be benefit in having them issued in advance of their effective date, in order to facilitate communication of the changes to the bar and education of users.

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Style of Report

The specific recommendations are presented in traditional legislative format, with new wording underscored and deleted words ~~struck through~~. Because the advisory committee comments are entirely new, no underlining is included.

Respectfully submitted,

MINNESOTA SUPREME COURT
ADVISORY COMMITTEE ON THE
RULES OF CIVIL APPELLATE
PROCEDURE

Recommendation 1: Amend the Minnesota Rules of Civil Appellate Procedure as Set Forth Below.

Introduction

The committee has reviewed the appellate rules to identify rules that should be revamped to facilitate the use of electronic filing in the appellate courts. The changes set forth here accomplish that, for cases where a separate order of the Minnesota Supreme Court authorizes or requires electronic filing or service.

Specific Recommendation

The Minnesota Rules of Appellate Procedure should be amended as set forth below:

Minnesota Rules of Civil Appellate Procedure

With amendments effective ~~July 1, 2011~~ _____

TITLE I. APPLICABILITY OF RULES

Rule 101. Scope of Rules; Definitions

* * *

101.02 Definitions

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

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

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

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

24 **Subd. 5.** "Clerk of the appellate courts" means the clerk of the Supreme Court and
25 the Court of Appeals.

26
27 **Subd. 6.** "Appellant" means the party seeking review including relators and
28 petitioners.

29
30 **Subd. 7.** "Signed" with reference to a document filed or served using the appellate
31 courts' electronic filing and service system requires that the document bear a
32 facsimile of the filer's signature or a typographical signature of an attorney or
33 declarant in the form: /s/ Pat L. Smith. Such a document shall be deemed to be
34 "signed" by the filer for all purposes and any similar indication that the document has
35 been signed shall be treated as a "signature." Notarization shall be accomplished in
36 accordance with Rule 14.04(c) of the Minnesota General Rules of Practice.

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40 **Advisory Committee Comment—2014 Amendments**

41 Subdivision 7 of Rule 101.02 is new, implementing part of the
42 electronic filing and service system for the appellate courts. It is
43 substantially similar to Rule 11.01 of the Minnesota Rules of Civil
44 Procedure, applicable in civil proceedings in the district courts. For
45 documents filed using the appellate courts' electronic filing system, the
46 electronically filed document is the original document. There is no
47 requirement that a paper version be physically signed and retained, and
48 such a paper duplicate should not be separately filed with the court.

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

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58 **TITLE II. APPEALS FROM JUDGMENTS AND ORDERS**

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60 **Rule 103. Appeal—How Taken**

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62 **103.01 Manner of Making Appeal**

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

- 67
68 (a) a statement specifying the judgment or order from which the appeal is taken; and
69 (b) the names, addresses, and telephone numbers of opposing counsel, indicating the
70 parties they represent.

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The notice shall be accompanied by:

- (c) proof of service on the adverse party or parties; and
- (d) proof of filing with the administrator of the trial court in which the judgment or order appealed from is entered or filed.

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

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

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

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

* * *

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

* * *

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

* * *

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

Advisory Committee Comment—2014 Amendments

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

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

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

122 A copy of the notice of appeal must be filed with the trial court
123 administrator to alert the trial court to the pendency of an appeal. For
124 this filing, the trial court’s filing rules should be followed. Because this
125 copy of the notice of appeal is filed with the district court, it is
126 permissible under Rule 125.01(d), as adopted at the time of these
127 amendments, to effect service of it on other parties by any means
128 authorized by the trial court rules. This rule permits service by the trial
129 court e-filing system, which should be useful for documents that may
130 be filed with the trial court using the same system. Because service
131 using the trial court system does not create a record confirming service
132 in the file of the clerk of the appellate courts, it is necessary for the filer
133 to file separate proof of service to the clerk of the appellate courts just
134 as if it were accomplished by mail or hand-delivery.

135 Rule 103.01, subd. 3, is amended to conform the terminology in the
136 rule to that of the statute governing unemployment benefit proceedings.
137 This change is not intended to change the procedure under the rule.
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139 **103.02 Joint Appeals; Related Appeals; Consolidated Appeals**

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

148 (a) a filing fee of \$100,

149 (b) a ~~certified~~ copy of the judgment or order from which the related appeal is taken if
150 different than the judgment or order being challenged in the original appeal, and

151 (c) ~~two copies of~~ a statement of the case.

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

153 **Advisory Committee Comment—2014 Amendments**

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

160 Similarly, only a single copy of the statement of the case is required
161 for this rule, and a cost bond is not normally required. These changes
162 conform the procedure for a party filing a notice of related appeal to
163 that for the appellant.
164

165 **Rule 105. Discretionary Review**

166 **105.01 Petition for Permission to Appeal; Time**

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170 Upon the petition of a party, in the interests of justice the Court of Appeals may allow
171 an appeal from an order not otherwise appealable pursuant to Rule 103.03 except an

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

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

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

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

187 **105.02 Content of Petition; Response**

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

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

194 A copy of the order from which the appeal is sought and any findings of fact,
195 conclusions of law, or memorandum of law relating to it shall be ~~attached to the petition~~
196 included in an addendum, which shall be prepared as prescribed in Rule 130.02.

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

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

205 The petition and any response shall be submitted without oral argument unless
206 otherwise ordered.
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219 **105.03 Grant of Permission—Procedure**

220
221 If permission to appeal is granted, the clerk of the appellate courts shall notify the
222 trial court administrator ~~and the appellant shall file the bond as required by these rules,~~
223 and then proceed as though the appeal had been noticed by filing an appeal.

224
225 ~~Two copies of a completed~~ The statement of the case shall be filed within ~~five~~ 5 days
226 of the order granting the petition. The time fixed by these rules for ~~transmitting the~~
227 ~~record and for filing and serving~~ the briefs ~~and appendix~~ shall run from the date of the
228 entry of the order granting permission to appeal.

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231 **Advisory Committee Comment—2014 Amendments**

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

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

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

245 The amended rule clarifies the duty to “provide” a copy of the
246 petition to the trial court a requiring that it be filed with the trial court
247 administrator. The same is required for any response or reply to the
248 petition. Because this copy of the petition is filed with the district court,
249 it is permissible under Rule 125.01(d), as adopted at the time of these
250 amendments, to effect service of it on other parties by any means
251 authorized by the trial court rules. This rule permits service by the trial
252 court e-filing system, which should be useful for documents that may
253 be filed with the trial court using the same system. Because service
254 using the trial court system does not create a record confirming service
255 in the file of the clerk of the appellate courts, it is necessary for the filer
256 to file separate proof of service to the clerk of the appellate courts just
257 as if it were accomplished by mail or hand-delivery.

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

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

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265 * * *

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268 **Rule 107. Bond or Deposit for Costs**

270 **107.01 When Bond Required**

271
272 ~~—Unless the appellant is exempt by law, a bond shall be executed by, or on behalf of,~~
273 ~~the appellant. The bond shall be conditioned upon the payment of all costs and~~
274 ~~disbursements awarded against the appellant on the appeal, not exceeding the penalty of~~
275 ~~the bond which shall be \$500. In lieu of the bond, the appellant may deposit \$500 with~~
276 ~~the trial court administrator as security for the payment.~~

277
278 ~~—Prior to filing the notice of appeal, the appellant may move the trial court for an order~~
279 ~~waiving the bond or setting a lesser amount or deposit. Upon the appellant's filing of the~~
280 ~~required cost bond or deposit, the respondent may move the trial court for an order~~
281 ~~requiring a supplemental bond or deposit.~~

282
283 ~~—The bond or deposit may be waived by written consent of the respondent, which~~
284 ~~consent shall be filed with the trial court administrator.~~

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286 **107.02 When Bond Not Required**

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288 ~~—No cost bond is required:~~

289
290 ~~—(a) in a criminal case; or~~

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

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

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

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

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

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

301
302 **107.01 No Cost Bond Required**

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

306
307 **107.02 Request to Trial Court to Require a Cost Bond**

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

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

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

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

320
321 **107.03 Cases For Which A Cost Bond May Not Be Required**

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

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324
325 (a) a criminal case;

326 (b) a case arising in juvenile court;

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

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

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

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

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

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338 **Advisory Committee Comment—2014 Amendments**

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

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

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

365 **Rule 110. The Record on Appeal**

366 **110.01 Composition of the Record on Appeal**

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

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371 **110.02 The Transcript of Proceedings; Duty of Appellant to Order; Notice to**
372 **Respondent if Partial Transcript is Ordered; Duty of Reporter; Form of Transcript**

373 * * *

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376 **Subd. 2. Transcript Certificates.** (a) If any part of the proceedings is to be
377 transcribed by a court reporter, a certificate as to transcript signed by the designating
378 counsel and by the court reporter shall be filed with the clerk of the appellate courts, with
379 a copy to the trial court and all counsel of record within 10 days of the date the transcript
380 was ordered. The certificate shall contain the date on which the transcript was requested;
381 the estimated number of pages; the estimated completion date not to exceed 60 days; a
382 statement that satisfactory financial arrangements have been made for the transcription;
383 and the court reporter's address and telephone number.

384 (b) If, within 10 days after the filing of a transcript certificate required by subdivision
385 2(a) of this rule, any party makes a written request to the designating counsel that a paper
386 transcript be provided to that party in lieu of an electronic transcript, the appellant or
387 designating attorney or party shall file with the clerk of the appellate courts an amended
388 transcript certificate confirming that satisfactory financial arrangements have been made
389 for the preparation of the transcript and any timely requested paper copy or copies. The
390 amended transcript certificate shall not extend the estimated completion date.

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

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

403 * * *

404
405
406 **Subd. 4. Transcript Requirements.** The transcript shall be formatted for
407 typewritten or printed on 8½ by 11 inch or 8½ by 10½ inch unglazed opaque paper with
408 double spacing between each line of text, shall be bound at the left hand margin, and
409 shall contain a table of contents. To the extent possible, the transcript of a trial or other
410 single court proceeding shall be consecutively paginated, regardless of the number of

411 volumes. The name of each witness shall appear at the top of each page containing that
412 person's testimony. A question and its answer may be contained in a single paragraph.
413 ~~The original and first copy of~~ Compressed formats allowing more than one page of
414 transcription to appear on a single page are not permitted for filed transcripts or for
415 service on any party unless that party has consented to a compressed format.

416
417 In all appeals from district court, the court reporter shall file the transcript shall be
418 filed with the trial court administrator in electronic format acceptable to the trial court
419 administrator, and The court reporter shall promptly transmit a paper copy of the
420 transcript shall be transmitted promptly to the attorney for each party to the appeal
421 separately represented who has timely requested a paper copy in lieu of an electronic
422 copy. For all other parties, the court reporter shall promptly transmit an electronic copy
423 of the transcript to the attorney for each party to the appeal separately represented. For
424 civil appeals other than from the district court, a paper transcript may be substituted for
425 an electronic transcript if an electronic transcript is not available.

426
427 All copies must be legible. The reporter shall certify the correctness of the transcript.

428
429 The transcript ~~should~~ shall include transcription of any testimony given by audiotape,
430 videotape, or other electronic means, unless that testimony has previously been
431 transcribed, in which case the transcript shall include the existing transcript of testimony,
432 with appropriate annotations and verification of ~~what~~ the portions that were replayed at
433 trial, as part of the official trial transcript.

434
435 ~~In any matter, the parties may stipulate to file with the clerk of the appellate courts, in~~
436 ~~addition to the typewritten or printed transcripts, all transcripts prepared for an appeal in~~
437 ~~electronic form. The electronic form shall be on compact discs formatted for IBM-~~
438 ~~compatible computers and shall contain the transcript in ASCII or other self-contained~~
439 ~~format accessible by Windows compatible operating systems with no additional software.~~
440 ~~The label on the disc must include the case name and the case file number. One copy of~~
441 ~~the disc must be served on each party separately represented by counsel. The filing party~~
442 ~~must certify that the disc has been scanned for viruses and that it is virus-free.~~

443 444 **110.05 Correction or Modification of the Record**

445
446 If any difference arises as to whether the record truly discloses what occurred in the
447 trial court, the difference shall be submitted to and determined by the trial court and the
448 record made to conform. If anything material to either party is omitted from the record
449 by error or accident or is misstated in it, the parties by stipulation, or the trial court, either
450 before or after the record is transmitted to the appellate court, or the appellate court, on
451 motion by a party or on its own initiative, may direct that the omission or misstatement
452 be corrected, and if necessary that a supplemental record be approved and transmitted.
453 All other questions as to the form and content of the record shall be presented to the
454 appellate court by motion.

457 **Advisory Committee Comment—2014 Amendments**

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

468 The rule presumes that all parties in civil appeals from district court
469 will receive transcripts in electronic format, but permits them to request
470 them in paper format by making a written request not later than the 10
471 days after service of the transcript certificate. A party is only entitled to
472 a transcript in one format at the expense of the party ordering the
473 transcript, so a party electing to receive a paper transcript will not
474 receive an electronic transcript. If a party makes a timely request in
475 writing for a paper transcript in lieu of the electronic transcript after the
476 transcript certificate required by Rule 110.02, subdivision 2(a), the
477 appellant must prepare an amended transcript certificate confirming
478 that adequate financial arrangements have been made for any paper
479 copies that are timely requested and not originally provided for.
480 Because this necessarily occurs early in the transcript preparation
481 period, the rule provides that changing the format does not affect the
482 projected delivery date for the transcript. If unusual circumstances
483 warrant the appellant may move for an extension of the transcript due
484 date. For civil appeals not from district court, including agency or other
485 administrative body appeals, it is not necessary that an electronic
486 transcript be prepared. The rule permits an electronic transcript for
487 those agencies or bodies that are able to prepare a transcript in
488 electronic form.

489 The committee does not contemplate that this rule would be made
490 effective for criminal appeals, at least not upon adoption in 2013.
491 Paper transcripts are needed in criminal cases and many clients lack
492 access to devices that would permit them to read electronic transcripts.

493
494
495 **Rule 111. Transmission of the Record**

496
497
498 **111.01 Transmission of Record; Time**

499
500 Within 10 days after the due date for the filing of the appellant's brief, the trial court
501 administrator shall prepare the record and transmit it or make it electronically available
502 ~~the record~~ to the clerk of the appellate courts, together with a numbered itemized list ~~in~~
503 ~~quadruplicate~~ of all documents and exhibits contained in the record, identifying each with
504 reasonable definiteness; each document and exhibit shall be endorsed with the
505 corresponding number from the itemized list. The trial court administrator shall send a
506 copy of this list to all parties. A party having possession of exhibits shall transmit them
507 with an itemized list ~~in quadruplicate~~ to the clerk of the appellate courts within 10 days
508 after the due date for the filing of the respondent's brief. A party shall make advance

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

513 * * *

514 515 **111.04 Disposition of Record after Appeal**

516
517
518 Upon the termination of the appeal, the clerk of the appellate courts shall ~~transmit the~~
519 ~~original transcript to the State Law Library and may transmit~~ return any tangible portions
520 of the remainder of the record to the trial court administrator.

521 522 523 Advisory Committee Comment—2014 Amendments

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

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

544 545 546 547 **Rule 112. Confidential Information; Sealing of Portions of Record**

548 549 550 **Rule 112.01 Status of Confidential Record Material on Appeal**

551
552 **Subdivision 1. Materials Not Available to the Public.** Materials that are filed in
553 the trial court under seal or in another manner that makes the materials unavailable to the
554 public pursuant to statute, court rule, or trial court order, as well as any documents
555 containing restricted identifiers as defined in Rule 11 of the General Rules of Practice,
556 will remain under seal or not available to the public on appeal unless either the trial court
557 or appellate court orders otherwise.

558 **Subd. 2. Sealing of Materials on Appeal.** In extraordinary situations where
559 material in the record is confidential or trade-secret information that was not protected by
560 a confidentiality order in the trial court, a party may move to have it filed under seal on
561 appeal. The motion must demonstrate the need for sealing the information and must set
562 forth the efforts made to maintain the confidentiality of the information before the motion
563 was brought.
564

565 **Rule 112.02. Handling of Confidential Portions of the Appellate Record**

566
567 Any materials that are filed under seal or in another manner that makes the materials
568 unavailable to the public and that need to be included in an addendum ~~or appendix~~ and
569 shall be filed in a sealed envelope designated as “Filed under Seal pursuant to Order of
570 the _____ Court dated _____” or in substantially similar form that
571 describes the basis for the assertion of confidentiality. Documents filed electronically
572 must be similarly segregated and designated.
573

574 **Rule 112.03. Duty to Maintain Confidentiality**

575
576 Every party to an appeal must take reasonable steps to prevent the disclosure of
577 confidential information, both in oral argument and written submissions filed with the
578 court, except in the manner prescribed in Rule 112.02. The court, on its own initiative or
579 the motion of any party, may impose sanctions for the failure to comply with this rule,
580 including the imposition of the costs of preparing appropriate documents for filing. Such
581 a motion may be brought by a non-party to the appeal who is adversely affected by the
582 failure to comply.
583

584
585 * * *

586 **Advisory Committee Comment—2014 Amendments**

587 All participants in the appellate process must take reasonable
588 measures to assure that confidential information is not exposed to
589 public access by filing or discussion in open court. This requirement
590 exists for traditional paper filings, but the consequences of its violation
591 for documents filed electronically can be dramatic, and the filer
592 violating the rules can be subjected to sanctions as well as exposure to
593 liability.
594

595 Appellate court filers should realize that filings in the appellate
596 courts are presumed to be accessible to the public. *See generally*
597 *Minnesota Rules of Public Access to Records of the Judicial Branch*.
598 The access rules also define categories of records that are not accessible
599 to the public. Other rules and statutes define constraints on materials
600 that should not be filed publicly. *See, e.g.*, Minn. Gen. R. Prac. 11
601 (district court records); Minn. R. Juv. Del. P. 30; Minn. R. Juv. Prot. P.
602 8.04). Three compilations that illustrate additional bases for access to
603 the records of the judicial branch and for limiting that access are
604 available at <http://www.mncourts.gov/?page=511#publicAccess>,
605 located under the “Public Access” link. Those compilations do not
606 provide comprehensive information on all categories or bases for

607 access or confidentiality. Materials in any appeal dealing with records
608 that are not accessible under the rules of an agency or trial court should
609 be protected from public disclosure on appeal.

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

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

632 This rule is amended to clarify the importance of these issues, and
633 to provide a clear mandate that the parties attend to their obligation to
634 avoid disclosure of any confidential materials. Rule 112.03 includes an
635 express provision for the imposition of sanctions for the failure to use
636 reasonable steps to prevent the disclosure of confidential materials.
637 Recognizing that the failure to comply with the rule may injure
638 individuals or entities that are not parties to the appeal, the rule
639 expressly allows them to seek relief under the rule. Non-parties to the
640 appeal would include parties to the underlying action who are not made
641 parties to the appeal as well as third-parties whose confidential
642 information is for any reason made part of the record.

643 644 645 **Rule 114. Court of Appeals Review of Administrative Rules**

646 647 **114.01 How Obtained**

648
649
650 Review by the Court of Appeals of the validity of administrative rules pursuant to
651 Minnesota Statutes, section 14.44 may be obtained by:

- 652
653 (a) filing a petition for declaratory judgment with the clerk of the appellate courts;
654 (b) paying the filing fee of \$550 to the clerk of the appellate courts, unless no fee is
655 required pursuant to Rule 103.01, subdivision 3;
656 (c) serving the petition upon the attorney general and the agency or body whose rule
657 is to be reviewed; and
658 (d) filing proof of service with the clerk of the appellate courts; ~~and~~

659 ~~(e) filing a cost bond or other security with the agency or body, unless no bond is if~~
660 ~~required pursuant to Rule 107, subdivision 2, or the agency or board waives the bond.~~

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

663
664
665 **Advisory Committee Comment—2014 Amendments**

666 Rule 114.01 is amended to remove the requirement for filing a cost
667 bond except if ordered by the agency. See Rule 107. (“Trial court” in
668 Rule 107 is defined in Rule 101.02, subd. 4, to include an agency from
669 whom an appeal is taken.)
670

671
672
673 **114.02 Contents of Petition for Declaratory Judgment**

674
675 The petition shall briefly describe the specific rule to be reviewed and the errors
676 claimed by petitioner. ~~An original and one copy of t~~The completed statement of the case
677 pursuant to Rule 133.03 and a copy of the rule which is to be reviewed shall be ~~attached~~
678 ~~to~~ filed with the petition. The title and form of the petition should conform to that shown
679 in the appendix to these rules.

680
681 * * *

682
683 **Advisory Committee Comment—2014 Amendments**

684 Rule 114.02 is amended to eliminated the requirement that an
685 additional copy of the statement of the case be filed..

686 **114.04 Briefing**

687
688 Petitioner shall serve and file a brief and ~~appendix~~ addendum within 30 days after
689 transmission of the record by the agency or body, and briefing shall proceed in
690 accordance with Rule 131.01.

691
692 * * *

693
694
695 **TITLE III. DECISIONS REVIEWABLE BY CERTIORARI TO THE**
696 **COURT OF APPEALS OR THE SUPREME COURT**

697
698 **Rule 115. Court of Appeals Review of Decisions of the Department of Employment**
699 **and Economic Development and Other Decisions Reviewable by Certiorari and**
700 **Review of Decisions Appealable Pursuant to the Administrative Procedure Act**

701
702 * * *

704 **115.03 Contents of the Petition and Writ; Filing and Service**

705
706 **Subdivision 1. Contents and Form of Petition, Writ and Response.** The petition
707 shall definitely and briefly state the decision, judgment, order or proceeding which is
708 sought to be reviewed and the errors which the petitioner claims. A copy of the decision
709 and ~~an original and one copy of a completed~~ the statement of the case pursuant to Rule
710 133.03 shall be ~~attached to the petition~~ included in an addendum prepared as prescribed
711 by Rule 130.02. The title and form of the petition and writ shall be as shown in the
712 appendix to these rules. The respondent’s statement of the case, if any, shall be filed and
713 served not later than 14 days after service of the petitioner’s statement.

714
715 **Subd. 2. Bond or Security.** (a) ~~No cost bond need be filed unless~~ The petitioner
716 shall file with the agency or body the cost bond required upon motion for good cause
717 pursuant to Rule 107, unless no bond is required under Rule 107, subd. 2, or by statute, or
718 the bond is waived under Rule 107, subd. 1.

719 * * *

720
721
722 **Subd. 4. Service.** The petitioner shall serve a copy ~~copies~~ of the petition and the
723 writ, if issued, upon the agency or body to which it is directed and upon every party.
724 Proof of service shall be filed with the clerk of the appellate courts within five days of
725 service. A copy of the petition and writ shall be provided to the Attorney General, unless
726 the state is neither a party nor the body to which the writ is directed.

727 * * *

728
729
730 **Advisory Committee Comment—2014 Amendments**

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

737
738
739 **115.04 The Record on Review by Certiorari; Transmission of the Record**

740 * * *

741
742
743 **Subd. 4. Timing of Briefing.** Relator shall serve and file a brief and ~~appendix~~
744 addendum within 30 days after the service of the itemized list of contents of the record by
745 the agency or body, and briefing shall proceed in accordance with Rule 131.01.

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

752
753 **116.02 Petition for Writ; How Secured**

754
755 The petition and a proposed writ of certiorari shall be ~~presented to~~ filed with the
756 clerk of the appellate courts. The writ issued shall be in the name of the court.
757

758
759 **116.03 Contents of the Petition and Writ; Filing and Service**

760
761 **Subdivision 1. Contents and Form of Petition, Writ and Response.** The petition
762 shall definitely and briefly state the decision, judgment, order or proceeding which is
763 sought to be reviewed and the errors which the petitioner claims. A copy of the decision
764 and ~~the two copies of a completed~~ statement of the case pursuant to Rule 133.03 shall be
765 ~~attached to~~ filed with the petition. The title and form of the petition and writ should be as
766 shown in the appendix to these rules. The respondent's statement of the case, if any, shall
767 be filed and served within 14 days after service of the petitioner's statement.
768

769 * * *

770
771 **Subd. 4. Service; Time.** The petitioner shall serve copies of the petition and writ
772 upon the court or body to whom it is directed and upon any party within 30 days after the
773 petitioner was served with written notice of the decision to be reviewed, unless an
774 applicable statute prescribes a different period of time. Proof of service shall be filed
775 with the clerk of the appellate courts within 5 days of service. A copy of the petition and
776 writ shall be ~~provided to~~ served on the Attorney General at the time of service.
777

778 * * *

779
780
781 **Advisory Committee Comment—2014 Amendments**

782 Rule 116 is amended to clarify its intended operation. The former
783 rule contained requirements that the petition and proposed writ be
784 "presented" to the clerk of appellate courts and "provided to" the
785 Attorney General. For the sake of clarity, the rule replaces "presented
786 to" with "filed with" to align it with other rules requiring filing.
787 Similarly, the process for "providing" something to another party
788 throughout the rules is called "service." Rule 116 now incorporates
789 that customary nomenclature.
790
791
792

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

795 * * *
796

797
798 **Subd. 3. Petition Requirements.** The petition for review shall not exceed ~~five~~ 5
799 typewritten pages, exclusive of ~~appendix~~ addendum, and shall contain:

800 * * *
801

802
803 The ~~appendix~~ addendum shall contain the decision and opinion of the Court of
804 Appeals, and shall otherwise be prepared as prescribed by Rule 130.02. ~~the judgments,~~
805 ~~orders, findings of fact, conclusions of law, and memorandum decisions of the trial court~~
806 ~~or administrative agency, pertinent trial briefs, and any portion of the record necessary~~
807 ~~for an understanding of the petition.~~

808
809 ~~Four copies of the~~ The petition and ~~appendix~~ addendum shall be filed with the clerk
810 of the appellate courts.

811
812 **Advisory Committee Comment—2014 Amendments**

813 Proof of service as required by Rule 117, subd. 1, has traditionally
814 been accomplished by an affidavit of service. For documents served
815 using the appellate courts' electronic filing and service system, proof of
816 service is generated by the court's system and electronically
817 accompanies the served document; no separate proof of service is
818 required.

819 Only a single copy of the petition and addendum need be filed.
820

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

823 * * *
824

825
826 **Subd. 2. Petition Requirements.** The petition for accelerated review shall not
827 exceed ~~ten~~ 10 typewritten pages, exclusive of ~~appendix~~ addendum, and shall contain:

- 828
829 (a) a statement of the issues;
830 (b) a statement of the case, including all relevant facts, and disposition in the trial
831 court or administrative agency; and
832 (c) a brief argument in support of the petition.
833

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

839
840 Four copies of the ~~The~~ petition and ~~appendix~~ addendum shall be filed with the clerk.

841 * * *

843
844 **Advisory Committee Comment—2014 Amendments**

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

846
847
848
849 **TITLE V. EXTRAORDINARY WRITS**

850
851 **Rule 120. Writs of Mandamus and Prohibition Directed to a Judge or Judges**
852 **and Other Writs**

853
854 **120.01 Petition for Writ**

855
856 Application for a writ of mandamus or of prohibition or for any other extraordinary
857 writ in the Supreme Court directed to the Court of Appeals, the Tax Court, or the
858 Workers' Compensation Court of Appeals, or in the Court of Appeals directed to a trial
859 court shall be made by petition. The petition shall specify the lower court decision and
860 the name of the judge and shall contain:

861
862 (a) a statement of the facts necessary to an understanding of the issues presented by
863 the application;

864 (b) a statement of the issues presented and the relief sought; and

865 (c) a statement of the reasons why the extraordinary writ should issue.

866
867 ~~Petitioner shall attach a copy of the trial court decision challenged in the petition, and~~
868 ~~if necessary to an understanding of the issues, additional pertinent lower court~~
869 ~~documents.~~ A copy of any order or written action the application seeks to address and
870 any findings of fact, conclusions of law, or memorandum of law relating to it shall be
871 included in an addendum, which may include any portion of the record necessary for an
872 understanding of the application.

873
874 The petition shall be titled "In re (name of petitioner), Petitioner," followed by the
875 trial court caption, and shall be captioned in the court in which the application is made, in
876 the manner specified in Rule 120.04.

877 * * *

878
879
880 **120.04 Filing; Form of Papers Documents; Number of Copies**

881
882 Upon receipt of a \$550 filing fee, the clerk of the appellate courts shall file the
883 petition. All ~~papers~~ documents and briefs ~~may must~~ be ~~typewritten~~ and in the form
884 specified in Rule 132.02. ~~Four copies~~ The petition ~~with~~ and proof of service shall be
885 filed with the clerk of the appellate courts, but the reviewing court may direct that

886 additional copies be provided. Service of all papers documents and briefs may be made
887 personally, by mail, or electronically if authorized or required by order of the Minnesota
888 Supreme Court.

889
890
891 **Advisory Committee Comment—2014 Amendments**

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

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

902
903
904
905 **TITLE VII. GENERAL PROVISIONS**

906
907 **Rule 125. Filing and Service**

908
909 **125.01 Filing**

910
911 Papers (a) Documents required or authorized by these rules shall be filed with the
912 clerk of the appellate courts within the time limitations contained in the applicable rule.
913 Filing with the clerk of the appellate courts may be accomplished by one of the following
914 means:

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

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

918 1. By United States Mail addressed to the clerk of the appellate courts, but
919 filing shall not be timely unless the papers documents are deposited in the
920 mail within the time fixed for filing.

921 2. By use of the appellate courts' electronic filing system if permitted by an
922 order of the Minnesota Supreme Court.

923 3. ~~Filing may be accomplished by~~ By hand delivery to the clerk's office or use
924 of a commercial courier service, and shall be effective upon receipt by the
925 clerk of the appellate courts.

926
927 (b) Filing by facsimile or ~~other~~ other electronic means other than authorized or required by
928 an order of the Minnesota Supreme Court is not allowed in the appellate courts, except
929 with express leave of the court.

930
931 (c) Filing shall occur at the time and date of:

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

- 935 2. mailing by United States Mail addressed to the clerk of the appellate courts, or
936 3. receipt by the clerk of the appellate courts during normal office hours for
937 documents filed by hand delivery or by use of a commercial courier service.

938
939 (d) For any document that is required or permitted under these rules to be filed with
940 the trial court, the filer may file or serve the document using the trial court's electronic
941 service system or any other means authorized by the trial court rules. Separate proof of
942 such service must be filed with the clerk of the appellate courts. Any party to the trial
943 court proceedings registered for use of the trial court's electronic service system shall be
944 deemed to have consented to receive service in this manner.

945
946 (e) If a motion or petition requests relief that may be granted by a single judge, the
947 judge may accept the document for filing, in which event the date of filing shall be noted
948 on it and it shall be thereafter transmitted to the clerk.

949
950 (f) All ~~papers~~ documents filed shall include the attorney registration license number
951 of counsel filing the ~~paper~~ document and, if filed subsequent to the notice of appeal, shall
952 specify the appellate court docket number, if one has been assigned.

953 954 **125.02 Service and Filing of All ~~Papers~~ Documents Required**

955
956 Copies of all ~~papers~~ documents filed by any party shall be served by that party, at or
957 before the time of filing, on all other parties to the appeal or review. ~~Papers~~ Documents
958 shall be filed with the clerk of the appellate courts at the time of service or immediately
959 thereafter. Service on a party represented by counsel shall be made on the attorney.

960 961 **125.03 Manner of Service**

962
963 Unless otherwise required by Rule 114.01, sService may be electronic by use of the
964 appellate courts' electronic filing system, personal, or by United States Mail. Personal
965 service includes delivery of a copy of the document to the attorney or other responsible
966 person in the office of the attorney, or to the party, if not represented by counsel, in any
967 manner provided by Rule 4, Minnesota Rules of Civil Procedure.

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

971 ~~w~~Whenever a party is required or permitted to do an act within a prescribed period
972 after service and the ~~paper~~ document is served by United States Mail, 3 days shall be
973 added to the prescribed period. If a document is served electronically or personally after
974 5:00 p.m., 1 day shall be added to the prescribed period.

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

977 Service by facsimile or other electronic means other than authorized or required by an
978 order of the Minnesota Supreme Court is allowed only with the consent of the party to be
979 served, and is effective upon receipt.

981 **125.04 Proof of Service**

982
983 ~~Papers presented for filing shall contain either a written admission of service or an~~
984 ~~affidavit of service. Proof of service may appear on or be affixed to the papers filed.~~

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

- 988
989 (a) Confirmation of service by authorized use of the appellate courts’ electronic filing
990 system, in which event separate proof of service need not be filed
991 (b) Written admission of service, or
992 (c) An affidavit or certificate of service.

993
994 The clerk of the appellate courts may permit ~~papers~~ documents to be filed without proof
995 of service, but shall require proof of service to be filed promptly after filing the ~~papers~~
996 documents.

997
998
999 **Advisory Committee Comment—2014 Amendments**

1000 Rule 125.01-.04, are amended to provide explicitly for filing and
1001 service of papers electronically.

1002 While filing by facsimile or other electronic means is not permitted
1003 without an order from the court authorizing it, the parties may consent
1004 to service by facsimile or e-mail (the primary “other electronic means”
1005 that might be elected). Service by any means other than electronic
1006 service using the appellate courts’ e-service system requires that proof
1007 of service be filed with the clerk of the appellate courts.

1008 Rule 125.01(d) is a new provision that defines the interaction of the
1009 trial court rules for service with these rules. It permits documents that
1010 are to be filed in the trial court to be filed and served by any means
1011 authorized by the trial court rules. This rule is intended to permit
1012 parties to use the trial court’s electronic filing and electronic service
1013 system for these documents. Because that filling would not result in
1014 proof of service being transmitted to the appellate courts’ electronic
1015 filing system, separate proof of service must be filed with the clerk of
1016 the appellate courts.

1017 Rule 125 is also amended to change several references to “papers”
1018 to “documents.” This change is not intended to change the
1019 interpretation of the rule, other than to recognize that not all appellate
1020 court filings are in paper format

1021
1022
1023 **Rule 127. Motions**

1024
1025 Unless another form is prescribed by these rules, an application for an order or other
1026 relief shall be made by serving and filing a written motion for the order or relief. The
1027 filing of a motion shall not stay any time period or action specified in these rules unless
1028 ordered by the appellate court. The motion shall state with particularity the grounds and
1029 set forth the order or relief sought. If the motion is supported by briefs, affidavits or
1030 ~~other papers~~ documents, they shall be served and filed with the motion. Any party may

1031 file a response within 5 days after service of the motion. Any reply shall be served within
1032 ~~2~~ 3 days, at which time the motion shall be deemed submitted. The motion and all
1033 ~~relative~~ related ~~papers~~ documents may be typewritten. ~~Four copies of all papers~~ Each
1034 document shall be filed with proof of service. Oral argument will not be permitted except
1035 by order of the appellate court.
1036

1037
1038 **Advisory Committee Comment—2014 Amendments**

1039 Rule 127 is amended only to change references to “papers” to
1040 “documents.” This change is not intended to change the interpretation
1041 of the rule, other than to recognize that not all appellate court filings are
1042 in paper format

1043
1044 **Rule 128. Briefs**

1045
1046 **128.01 Informal Briefs and Letter Briefs**

1047
1048 **Subdivision 1. Informal Briefs.** Informal briefs may be authorized by the appellate
1049 court and shall contain a concise statement of the party's arguments on appeal, together
1050 with the ~~appendix~~ addendum required by Rule 130.01. The informal brief shall have a
1051 cover and any paper copy may be bound ~~informally~~ by stapling.
1052

1053 **Subd. 2. Reliance Upon Trial Court Memoranda.** If counsel elects, in the
1054 statement of the case, to rely upon memoranda submitted to the trial court supplemented
1055 by a short letter argument, the submission shall be covered and any paper copy may be
1056 ~~informally~~ bound by stapling. The trial court submissions and decision shall be ~~attached~~
1057 ~~as the appendix~~ included in the addendum.
1058

1059
1060 **Advisory Committee Comment—2014 Amendments**

1061 Rule 128.01 is amended to make it clear that documents that are
1062 served and filed electronically are not stapled—only paper versions of
1063 these documents are to be stapled.
1064

1065
1066 **128.02 Formal Brief**

1067
1068 **Subdivision 1. Brief of Appellant.** The formal brief of the appellant shall contain
1069 under appropriate headings and in the order here indicated:
1070

1071 (a) A table of contents, with page references, and an alphabetical table of cases,
1072 statutes, and other authorities cited, with references to the pages of the brief where they
1073 are cited.

1074 (b) A concise statement of the legal issue or issues involved, omitting unnecessary
1075 detail. Each issue shall be stated as an appellate court would state the broad issue
1076 presented. Each issue shall be followed by:

- 1077 (1) a description of how the issue was raised in the trial court, including
1078 citations to the record;
1079 (2) a concise statement of the trial court's ruling;
1080 (3) a description of how the issue was subsequently preserved for appeal,
1081 including citations to the record; and
1082 (4) a list of the most apposite cases, not to exceed four, and the most apposite
1083 constitutional and statutory provisions.

1084 (c) A statement of the case and the facts. A statement of the case shall first be
1085 presented identifying the trial court and the trial judge and indicating briefly the nature of
1086 the case and its disposition. There shall follow a statement of facts relevant to the
1087 grounds urged for reversal, modification or other relief. The facts must be stated fairly,
1088 with complete candor, and as concisely as possible. Where it is claimed that a verdict,
1089 finding of fact or other determination is not sustained by the evidence, the evidence, if
1090 any, tending directly or by reasonable inference to sustain the verdict, findings or
1091 determination shall be summarized. Each statement of a material fact shall be
1092 accompanied by a reference to the record, as provided in Rule 128.03.

1093 (d) An argument. The argument may be preceded by a summary introduction and
1094 shall include the contentions of the party with respect to the issues presented, the
1095 applicable standard of appellate review for each issue, the analyses, and the citations to
1096 the authorities. Each issue shall be separately presented. Needless repetition shall be
1097 avoided.

1098 (e) A short conclusion stating the precise relief sought.

1099 (f) The ~~appendix~~ addendum required by Rule ~~130.01~~ 130.02.

1100
1101 **Subd. 2. Brief of Respondent.** The formal brief of the respondent shall conform to
1102 the requirements of Rule 128.02, subdivision 1, except that a statement of the issues or of
1103 the case or facts need not be made unless the respondent is dissatisfied with the statement
1104 of the appellant. If a notice of related appeal is filed pursuant to Rule 103.02, subdivision
1105 2, the respondent's brief shall present the issues specified in the notice of related appeal.
1106 A respondent who fails to file a brief either when originally due or upon expiration of an
1107 extension of time shall not be entitled to oral argument without leave of the appellate
1108 court.

1109
1110 ~~**Subd. 3. Addendum.** (a) Contents. Appellant must prepare an addendum and file it
1111 with the opening brief. The addendum must include:~~

1112 ~~(1) a copy of any order, judgment, findings, or trial court memorandum in the
1113 action directly relating to or affecting issues on appeal; and~~

1114 ~~(2) short excerpts from the record, other than from the transcript of testimony,
1115 that would be helpful in reading the brief~~

1116 ~~(b) Length. The addendum must not exceed 15 pages excluding the orders and
1117 judgments required by subdivision (1)(a) of this rule and any material reproduced in the
1118 addendum Rule 128.04. The addendum must be incorporated into the back of the brief,
1119 unless it includes a long district court decision, in which event it may be bound
1120 separately. If bound separately, the appellant must file the same number of addenda as
1121 briefs.~~

1122 (c) ~~Respondent's Addendum. The respondent's brief may include an addendum not~~
1123 ~~to exceed 15 pages, which must be incorporated into the back of the brief. If the~~
1124 ~~addendum filed by the appellant omits any material required by section (a)(1) or (2) of~~
1125 ~~this subdivision or pursuant to Rule 128.04, the respondent may include it in the~~
1126 ~~respondent's addendum in addition to the 50 pages otherwise allowed.~~

1127 (d) ~~Non-Duplication. A document or other material included in any party's~~
1128 ~~addendum need must not be included in any appendix other party's addendum.~~

1129 * * *

1130
1131
1132
1133 **Advisory Committee Comment—2014 Amendments**

1134 Rule 128.02 is modified primarily to delete references to the
1135 appendix, which is no longer permitted or required in any appellate
1136 proceeding. See Rule 130.01, subd. 1. The appendix is replaced by an
1137 expanded addendum, as provided in subdivision 3 of this rule.

1138 * * *

1139
1140
1141 **128.03 References in Briefs to Record**

1142
1143 Whenever a reference is made in the briefs to any part of the record which is
1144 reproduced in the addendum ~~or appendix or in a supplemental record~~, the reference shall
1145 be made to the specific pages of the addendum ~~or appendix or the supplemental record~~
1146 where the particular part of the record is reproduced. Whenever a reference is made to a
1147 part of the record which is not reproduced in the addendum ~~or appendix or in a~~
1148 ~~supplemental record~~, the reference shall be made to the particular part of the record,
1149 suitably designated, and to the specific pages of it, e.g., Motion for Summary Judgment,
1150 filed 10/3/13, at p. 1; Transcript, at p. 135; Plaintiff's Exhibit D, p. 3. Intelligible
1151 abbreviations may be used, e.g. Tr.135, Add.41, Resp.Add.22.

1152
1153 **128.04 Reproduction of Statutes, Ordinances, Rules, Regulations, Etc.**

1154
1155 If determination of the issues presented requires the study of statutes, ordinances,
1156 rules, regulations, etc., or relevant parts of them, that are not readily available in a
1157 publically available electronic database or Minnesota law libraries, they shall be
1158 reproduced in the brief or ~~in an addendum,~~ or they may be supplied to the court in
1159 pamphlet form.

1160
1161 **128.05 Citation of Supplemental Authorities**

1162
1163 If pertinent and significant authorities come to a party's attention after the party's
1164 brief has been filed or after oral argument but before decision, a party may promptly
1165 advise file a letter with the clerk of the appellate courts ~~by a letter, with a copy to all other~~
1166 ~~parties~~, setting forth the citations. The letter must state without argument the reasons for
1167 the supplemental citations, referring either to the page of the brief or to the point argued

1168 orally. The submission shall include proof of service complying with Rule 125.04. Any
1169 response must be made promptly and must be similarly limited.

1170
1171
1172
1173 **Rule 130. The Appendix Eliminated to the Briefs; Supplemental Record**

1174
1175 **130.01 Record Not to be Printed; Appellant to File Appendix Not Permitted**

1176
1177 **Subdivision 1. Record; Portions.** The record shall not be printed. No party may
1178 submit an appendix to its brief. ~~The appellant shall prepare and file an appendix to its~~
1179 ~~brief. The appendix shall be separately and consecutively numbered and shall contain the~~
1180 ~~following portions of the record:~~

- 1181
1182 ~~—(a) the relevant pleadings;~~
1183 ~~—(b) the relevant written motions and orders;~~
1184 ~~—(c) the verdict or the findings of fact, conclusions of law and order for judgment;~~
1185 ~~—(d) the relevant post trial motions and orders;~~
1186 ~~—(e) any memorandum opinions;~~
1187 ~~—(f) if the trial court's instructions are challenged on appeal, the instructions, any~~
1188 ~~portion of the transcript containing a discussion of the instructions and any relevant~~
1189 ~~requests for instructions;~~
1190 ~~—(g) any judgments;~~
1191 ~~—(h) the notice of appeal;~~
1192 ~~—(i) if the constitutionality of a statute is challenged, proof of compliance with Rule~~
1193 ~~144; and~~
1194 ~~—(j) the index to the documents contained in the appendix.~~

1195
1196 The parties shall have regard for the fact that the entire record is always available to
1197 the appellate court for reference or examination, ~~and shall not engage in unnecessary~~
1198 ~~reproduction. Any documents included in an addendum to a party's brief need not be~~
1199 ~~included in the appendix.~~

1200
1201 **Subd. 2. Statement of the Proceedings or Agreed Statement.** If the record
1202 includes a statement of the proceedings made pursuant to Rule 110.03 or an agreed
1203 statement made pursuant to Rule 110.04, the statement shall be included in the ~~appendix~~
1204 addendum prepared as prescribed by Rule 130.02.

1205
1206
1207 **Advisory Committee Comment—2014 Amendments**

1208 Rule 130.01 is amended to delete provisions requiring an appendix,
1209 as the appendix is no longer required or permitted for any appellate
1210 proceedings. The court has the entire record available to it and the
1211 appendix is often bulky, expensive to produce, serve, and store, and is
1212 of limited value in most appeals. Former Rule 130.02, which allowed a
1213 respondent to submit an appendix, is similarly abrogated.

1214 Former Rule 130.03 authorized the filing of a supplemental record.
1215 Because the record is delivered electronically to the appellate courts for

1216 civil actions or by other means for some administrative appeals, the use
1217 of a supplemental record is no longer necessary or helpful to the court
1218 (and has been rarely used in any event). Accordingly, this rule is
1219 abrogated.
1220

1221 **130.02 Respondent May File Appendix Addendum**

1222 ~~If the respondent determines that the appendix filed by the appellant omits any items~~
1223 ~~specified in Rule 130.01, only those omitted items may be included in an appendix to the~~
1224 ~~respondent's brief.~~

1225 (a) Contents. Appellant or petitioner must prepare an addendum and file it with the
1226 opening brief or petition. The addendum must include:

1227 (1) a copy of any order, judgment, findings, or trial court memorandum in the
1228 action directly relating to or affecting issues on appeal; and

1229 (2) any agreed statement of the record.

1230 (b) Length. The addendum must not exceed 50 pages excluding the orders and
1231 judgments or other materials required by section (a) of this rule or included pursuant to
1232 under Rule 128.04. The addendum must be incorporated into the back of the brief, unless
1233 it includes a long trial court decision, in which event it may be bound separately.

1234 (c) Respondent's Addendum. The respondent's brief or response to a petition may
1235 include an addendum not to exceed 50 pages, which must be incorporated into the back
1236 of the brief. If the addendum filed by the appellant omits any material required by
1237 section (a) of this rule or pursuant to Rule 128.04, the respondent may include it in the
1238 respondent's addendum in addition to the 50 pages otherwise allowed.

1239 (d) Other Addenda. Any addendum required other than with a formal brief shall
1240 also comply with the requirements of this rule.

1241 (e) Non-Duplication. A party may not include in an addendum any material
1242 included in any other party's previously filed addendum.
1243

1244 **130.03 Party May File Supplemental Record; Not Taxable Cost** [Abrogated. January 1245 1, 2014]

1246 ~~A party may prepare and file a supplemental record, suitably indexed, containing any~~
1247 ~~relevant portion of the record not contained in the appendix. The original pagination of~~
1248 ~~each part of the transcript set out in the supplemental record shall be indicated by placing~~
1249 ~~in brackets the number of the original page at the place where the page begins. If the~~
1250 ~~transcript is abridged, the pages and parts of pages of the transcript omitted shall be~~
1251 ~~clearly indicated following the index and at the place where the omission occurs. A~~
1252 ~~question and its answer may be contained in a single paragraph. The cost of producing~~
1253 ~~the supplemental record shall not be a taxable cost.~~
1254

1255 **Advisory Committee Comment—2014 Amendments**

1256 Rule 130.03 is amended to replace the provision calling for use of
1257 the appendix with reference to the addendum, as the appendix is no
1258 longer required or permitted.
1259

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

131.01 Time for Filing and Service

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

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

* * *

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

* * *

131.02 Application for Extension of Time

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

* * *

1309 **131.03 Number of Paper Copies to be Filed and Served**

1310
1311 ~~Subdivision 1. Number of Copies. Unless otherwise specified by the appellate~~
1312 ~~court, the following number of copies of each brief, appendix, and addendum~~
1313 ~~supplemental record, if any, shall be filed with the clerk of the appellate courts:~~

1314
1315 ~~—(a) In an appeal to the Supreme Court, 14 copies. Two copies of the 14 shall be~~
1316 ~~unbound.~~

1317 ~~—(b) In an appeal to the Court of Appeals, seven copies. One copy of the seven shall~~
1318 ~~be unbound.~~

1319
1320 ~~—If counsel has elected, in the statement of the case form, to rely on memoranda~~
1321 ~~submitted to the trial court, supplemented by a short letter argument, the number of paper~~
1322 ~~copies required by this rule shall be filed with the clerk of the appellate courts.~~

1323
1324 **Required Number, Due Date, and Manner of Filing Paper Copies of Briefs.** ~~For~~
1325 ~~paper copies, the required number, time, and manner of filing may be established either~~
1326 ~~by standing order of the applicable appellate court or by order court order.~~

1327
1328 **Subd. 2. Service.** ~~Two paper copies of each brief appendix, and addendum~~
1329 ~~supplemental record, if any, shall be served on the attorney for each party to the appeal~~
1330 ~~separately represented and on each party appearing pro se. The clerk shall not accept a~~
1331 ~~brief, or appendix addendum, or supplemental record for filing unless it is accompanied~~
1332 ~~by admission or p Proof of service shall be made as required defined by Rule 125.04.~~

1333
1334
1335 **Advisory Committee Comment—2014 Amendments**

1336 Rule 131 is amended in several places to change references to the
1337 appendix to refer to the addendum. The use of an appendix as it
1338 formerly existed is no longer either required or permitted in any
1339 appellate proceedings.

1340 As part of the implementation of electronic filing in the appellate
1341 courts, the courts may adjust the number of paper copies of briefs to be
1342 provided to the courts. This may be accomplished by general order or
1343 order in individual appeals. That order may also modify the required
1344 timing for filing paper briefs of the place or manner of filing.

1345 Subdivision 2 of Rule 131.03 is amended to provide notice that the
1346 courts may further reduce the number of required paper copies of briefs
1347 and addenda. The rule allows the Supreme Court to change the number
1348 of copies, or other requirements for filed copies, including the deadline
1349 for filing paper copies or place of filing. The Court could make these
1350 changes by order applicable to all appeals or by order with notice to the
1351 parties in a particular appeal or category of appeals.

1355 **Rule 132. Form of Briefs, ~~Appendices~~ Addenda, ~~Supplemental Records~~, Motions**
1356 **and other ~~Papers~~ Documents**

1357
1358 **132.01 Form of Briefs and ~~Appendices~~ Addenda, ~~and Supplemental Records~~**

1359
1360 **Subdivision 1. Form Requirements.** Any process capable of producing a clear black
1361 image on white paper may be used. Briefs shall be printed or typed on unglazed opaque
1362 paper. If a monospaced font is used, printed or typed material (including headings and
1363 footnotes) must appear in a font that produces a maximum of 10½ characters per inch; if
1364 a proportional font is used, printed or typed material (including headings and footnotes)
1365 must appear in at least 13-point font.

1366
1367 Formal briefs and ~~accompanying appendices~~ addenda shall be bound together by a
1368 method that securely affixes the contents, and that is substantially equivalent to the list of
1369 approved binding methods maintained by the clerk of appellate courts. Methods of
1370 binding that are not approved include stapling, continuous coil spiral binding, spiral comb
1371 bindings and similar bindings. Pages shall be 8½ by 11 inches in size with written matter
1372 not exceeding 6½ by 9½ inches. Written matter in briefs and addenda shall appear on
1373 only one side of the paper; ~~appendices and supplemental records may be produced in the~~
1374 ~~same manner or using two-sided printing.~~ The pages of the ~~appendix~~ addendum shall be
1375 separately and consecutively numbered. Briefs shall be double-spaced, except for tables
1376 of contents, tables of authorities, statements of issues, headings and footnotes, which may
1377 be single-spaced. Carbon copies shall not be submitted.

1378
1379 **Subd. 2. Front Cover.** The front cover of the brief and ~~appendix~~ addendum shall
1380 contain:

- 1381
1382 (a) the name of the court and the appellate court docket number, which number shall
1383 be printed or lettered in bold-face print or prominent lettering and shall be located one-
1384 half inch from the top center of the cover;
- 1385 (b) the title of the case;
- 1386 (c) the title of the document, e.g., Appellant's Brief and ~~Appendix~~ Addendum; and
- 1387 (d) the names, addresses, and telephone numbers of the attorneys representing each
1388 party to the appeal, and attorney registration license numbers of the preparers of the brief.

1389
1390 The front cover shall not be protected by a clear plastic or mylar sheet.

1391
1392 If briefs are formally bound, the cover of the paper brief of the appellant should be
1393 blue; that of the respondent, red; that of an intervenor or amicus curiae, green; that of any
1394 reply brief, gray. The cover of the ~~appendix~~ addendum, if separately printed, should be
1395 white. The cover of an amendment or supplement should be the same color as the
1396 document which it amends or supplements. The cover of any other document separately
1397 prepared under this rule should be white.

1398
1399 **Subd. 3. Length Limit.** Except for good cause shown and with permission of the
1400 appellate court, briefs, whether printed or typewritten, exclusive of pages containing the

1401 table of contents, tables of citations, and any addendum ~~containing statutes, rules,~~
1402 ~~regulations, etc., and any appendix~~, shall not exceed 45 pages for principal briefs, 20
1403 pages for reply briefs, and 20 pages for amicus briefs, unless the brief complies with one
1404 of these alternative measures:

- 1405
- 1406 (a) A principal brief is acceptable if:
- 1407 (1) it contains no more than 14,000 words; or
- 1408 (2) it uses a monospaced font and contains no more than 1,300 lines of text.
- 1409 (b) A reply brief is acceptable if:
- 1410 (1) it contains no more than 7,000 words; or
- 1411 (2) it uses a monospaced font and contains no more than 650 lines of text.
- 1412 (c) An amicus brief is acceptable if:
- 1413 (1) it contains no more than 7,000 words; or
- 1414 (2) it uses a monospaced font and contains no more than 650 lines of text.
- 1415

1416 A brief submitted under Rule 132.01, ~~subd.~~ subdivision 3(a), (b), or (c) must include
1417 a certificate that the brief complies with the word count or line count limitation. The
1418 person preparing the certificate may rely on the word or line count of the word-
1419 processing software used to prepare the brief. The certificate must state the name and
1420 version of the word processing software used to prepare the brief, state that the brief
1421 complies with the typeface requirements of this rule, and state either:

- 1422
- 1423 (1) the number of words in the brief; or
- 1424 (2) the number of lines of monospaced font in the brief.
- 1425

1426 Application for filing an enlarged brief shall be filed at least 10 days prior to the date
1427 the brief is due.

1428

1429 **Advisory Committee Comment—2014 Amendments**

1430 Rule 131 is amended in several places to change references to the
1431 appendix to refer to the addendum. The use of an appendix as it
1432 formerly existed is no longer either required or permitted in any
1433 appellate proceedings.

1434

1435

1436 **132.02 Form of Motions and Other ~~Papers~~ Documents**

1437

1438 **Subdivision 1. Form Requirements.** ~~Papers~~ Documents not required to be
1439 produced in the manner prescribed by Rule 132.01 shall be 8½ by 11 inches in size with
1440 typewritten matter not exceeding 6½ by 9½ inches. Any process capable of producing a
1441 clear black image on white paper may be used. All material must appear in at least 11-
1442 point type, or its equivalent of not more than 16 characters per inch, on unglazed opaque
1443 paper. Pages shall be bound or stapled at the top margin and numbered at the center of
1444 the bottom margin. Typewritten matters shall be double spaced. Carbon copies shall not
1445 be submitted.

1446

1447 **Subd. 2. Caption.** Each paper document shall contain a caption setting forth the
1448 name of the court, the title of the case, the appellate court docket number, and a brief
1449 descriptive title of the paper document; and shall be subscribed by the attorney preparing
1450 the paper document together with the preparer's address, telephone number, and attorney
1451 registration license number.

1452
1453 **Advisory Committee Comment—2013 Amendments**

1454 Rule 132.02 is amended only to change references to “papers” to
1455 “documents.” This change is not intended to change the interpretation
1456 of the rule, other than to recognize that not all appellate court filings are
1457 in paper format.
1458

1459
1460 **132.03 Form of Documents Filed Electronically**

1461
1462 Any documents filed or served electronically shall be in searchable Portable
1463 Document Format (PDF), Word, or WordPerfect format. Addendum materials that
1464 cannot readily be rendered in searchable form may be in non-searchable PDF format.
1465

1466
1467 **Advisory Committee Comment—2014 Amendments**

1468 Rule 132.03 is a new rule to specify the format for documents filed
1469 electronically when authorized or permitted by court rules. The rule
1470 permits searchable PDF, Word, or WordPerfect documents, although
1471 searchable PDF is the preferred format. The rule recognizes that
1472 documents for an addendum may be difficult or impossible to prepare
1473 in searchable format, and for these documents, a non-searchable PDF
1474 document may be included. These documents would include
1475 photographs, advertisements, brochures, and medical records.
1476

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1479 **Rule 133. Prehearing Conference; Calendar**

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1484 **133.02 Calendar**

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1486 No case shall be placed on the calendar for argument, except by special order of the
1487 appellate court, until there has been filed in the appellate court the appellant's brief and
1488 ~~appendix~~ addendum and the respondent's brief. If either the appellant or the respondent
1489 fails to file the required brief within the time provided, or an extension of that time, the
1490 case shall be disposed of in accordance with Rule 142.
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1493 **Advisory Committee Comment—2014 Amendments**

1494 Rule 133 is amended to change a reference to the appendix to refer
1495 the addendum. The use of an appendix as it formerly existed is no
1496 longer either required or permitted in any appellate proceedings.

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Rule 134. Oral Argument

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134.07 Trial Court Exhibits; Diagrams and Demonstrative Aids

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

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

Advisory Committee Comment—2014 Amendments

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

Rule 139. Costs and Disbursements

* * *

139.05 Disallowance of Costs and Disbursements

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

Advisory Committee Comment—2013 Amendments

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

1545 **Rule 140. Petition for Rehearing in Supreme Court**

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1549 **140.02 Service; Filing**

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1551 The petition shall be served upon the opposing party who may answer within ~~five~~ 5
1552 days after service. Oral argument in support of the petition will not be permitted.
1553 ~~Fourteen copies of the petition, produced and sized as~~ The petition, in the format required
1554 by Rule 132.01, shall be filed with the clerk. A filing fee of \$100 shall accompany the
1555 petition for rehearing.

1556
1557
1558 **Advisory Committee Comment—2014 Amendments**

1559 As part of the implementation of electronic filing in the appellate
1560 courts, the courts have reviewed the number of documents needed by
1561 the courts. Under the revised rule only a single copy is required,
1562 whether the document is filed electronically or by other means
1563 authorized by the rules.

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1566 **Rule 142. Dismissal; Default**

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1569 **142.02 Default of Appellant**

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1572 The respondent may serve and file a motion for judgment of affirmance or dismissal
1573 if the appellant fails or neglects to serve and file its brief and ~~appendix~~ addendum as
1574 required by these rules. If the appellant is in default for 30 days and the respondent has
1575 not made a motion under this rule, the appellate court shall order the appeal dismissed
1576 without notice, subject to a motion to reinstate the appeal. In support of the motion, the
1577 appellant must show good cause for failure to comply with the rules governing the
1578 service and filing of briefs, that the appeal is meritorious and that reinstatement would
1579 not substantially prejudice the respondent's rights.

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1581
1582 **Advisory Committee Comment—2014 Amendments**

1583 Rule 142.02 is amended to change a reference to the appendix to
1584 refer to the addendum. The use of an appendix as it formerly existed is
1585 no longer either required or permitted in any appellate proceedings.

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1591 **Rule 143. Parties; Substitution; Attorneys**

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1593 **143.05 Attorneys**

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1595 **Subdivision 1. Admission Required; Admission Pro Hac Vice.** All pleadings
1596 briefs, motions, notices, and petitions, filed with the appellate courts must be signed by
1597 an attorney licensed to practice in this State, or admitted pro hac vice to practice before
1598 the appellate courts. No attorney may present argument to the appellate courts unless
1599 licensed to practice in this State or admitted pro hac vice to appear before the appellate
1600 court as provided for by this rule.

1601
1602 An attorney licensed to practice law in Minnesota may move for the admission pro
1603 hac vice of an attorney admitted to practice law in another state or territory. The motion
1604 shall be accompanied by an affidavit of the attorney seeking pro hac vice admission
1605 attesting that he or she is a member in good standing of the bar of another state or
1606 territory.

1607
1608
1609 **Advisory Committee Comment—2013 Amendments**

1610 Rule 143.05 is amended to make it more explicit as to the specific
1611 documents requiring signature by an attorney. The former rule required
1612 signature for “pleadings,” a term that is not otherwise defined in the
1613 rules. “Signed” is defined in new Rule 101.02, subdivision 7, and
1614 includes provision for signing of documents filed using the appellate
1615 courts e-filing and e-service system.

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1619 **Rule 144. Cases Involving Constitutional Questions Where State is Not a Party**

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1621 When the constitutionality of an act of the legislature is questioned in any appellate
1622 proceeding to which the state or an officer, agency or employee of the state is not a party,
1623 the party asserting the unconstitutionality of the act shall ~~notify~~ file and serve on the
1624 attorney general notice of that assertion within time to afford an opportunity to intervene.
1625 Service of this notice on the attorney general may be effected by any means authorized
1626 by these rules.

1627
1628
1629 **Advisory Committee Comment—2014 Amendments**

1630 The amendment to Rule 144 is intended to clarify the existing rule
1631 and to adapt it to the e-service and e-filing environment. As amended,
1632 the rule makes it clear that notice of a challenge to constitutionality
1633 should be served on all parties and the attorney general and also filed
1634 with the clerk. The rule assumes that the Office of the Minnesota
1635 Attorney General will designate a means of service upon the office and
1636 consent to service using the appellate court’s e-filing and e-service, in
1637 which case that will be the easiest and fastest way to provide the notice
1638 required by this rule.