

PAUL M. NESS
OFFICIAL COURT REPORTER
443 COURT HOUSE
MINNEAPOLIS, MINN. 55415

July 28, 1967

Mrs. Mae Sherman, Clerk,
Minnesota Supreme Court,
State Capitol,
St. Paul, Minnesota.

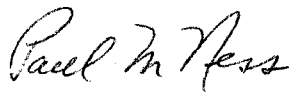
Dear Mrs. Sherman:

I enclose herewith Petition to amend Minnesota Proposed Rules of Civil Appellate Procedure, Rule 110.02, pursuant to instructions given on June 1, 1967, at the time of the oral hearing on the matter.

I do not know how the matter will be handled from now on. However, on the assumption that all members of the Supreme Court will be interested in it, I am taking the liberty of enclosing a copy for each of them.

If there is anything further that is required we would be happy to supply it.

Yours very truly,



Paul M. Ness, Chairman,
Legislative Committee,
Minn. Shorthand Reporters Assn.

STATE OF MINNESOTA
IN SUPREME COURT

In the Matter of Rules of)	
Pleading, Practice and)	
Procedure in Civil Actions)	Petition to Amend
and)	Minnesota Proposed
In the Matter of Rules of)	Rules of Civil Appellate
Civil Appellate Procedure)	Procedure, Rule 110.02

Pursuant to request made by the Minnesota Supreme Court at oral hearing of the above matter, the Minnesota Shorthand Reporters Association respectfully petitions the Supreme Court of the State of Minnesota to modify Proposed Rule 110.02 in the following respects:

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

(1) Within 10 days after service of the notice of appeal appellant shall order from the reporter a transcript of such parts of the proceedings not already part of the record as he deems necessary for inclusion in the record. Unless the entire transcript is to be included, the appellant, within said 10 days, shall file and serve on the respondent a description of the parts of the transcript which he intends to include in the record and the statement of the issues he intends to present on appeal. If the respondent deems a transcript of other parts of the proceedings to be necessary he shall within 10 days of service of such description order such parts from the reporter or serve and file a motion in the trial court for an order requiring the appellant to do so.

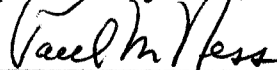
(2) At the time of ordering, a party must make satisfactory arrangements with the reporter for the payment of the cost of the transcript and all necessary copies. The reporter shall promptly acknowledge receipt of said order and his acceptance

of it, in writing, with copies to the clerk of the Supreme Court and all counsel of record and in so doing shall state the date, not to exceed a period of ~~six-weeks~~ 90 days, by which the transcript will be furnished. Upon delivery of the transcript to the appellant, the reporter shall file with the clerk of the Supreme Court a certificate evidencing the date of delivery of the transcript.

(3) If any party deems the period of time set by the reporter to be excessive or insufficient, he may request a different period of time within which the transcript must be delivered by written motion to the Supreme Court under Rule 127, showing good cause why said period of time is excessive or insufficient. Request for extension of time for delivery of the transcript may also be made by the reporter or by the trial judge. The Administrative Assistant to the Supreme Court shall act as a referee in hearing said motion and shall file with the Court appropriate findings and recommendations for an order of the Court in said matter. A failure to comply with the order of the Court fixing a time within which the transcript must be delivered ~~shall~~ may be punishable as a contempt of Court.

(4) The transcript shall be typewritten on 10½ X 8½ inches unglazed opaque paper with double-spacing between each line of text, shall be bound at the left-hand margin, and shall contain a table of contents. A question and its answer may be contained in a single paragraph. The original and first copy of the transcript shall be filed with the clerk of the trial court, and a copy shall be promptly transmitted to the attorney for each party to the appeal separately represented. All copies must be legible. The reporter shall certify the correctness of the transcript.

Respectfully submitted



Paul M. Ness, Chairman,
Legislative Committee,
Minnesota Shorthand Rprtrs Assn.

MEMORANDUM

A petition was originally made in this matter requesting modification of the proposed rule on May 18, 1967. Oral hearing was had on June 1, 1967 at which time the Court indicated the proposal made by the Minnesota Shorthand Reporters Association was not acceptable to them because of the failure of the proposal to include a definite limitation of time within which transcripts must be prepared and delivered. It is as a result of instructions given at that time that the above new proposal is made.

The petition to amend Paragraph (2) limiting the time for delivery of transcripts to 90 days rather than six weeks is made on the basis that 90 days is a more realistic period. Shorter transcripts would still be prepared and delivered promptly. Some longer transcripts, ordered at a time when the reporter is on a light calendar schedule, could be delivered well before the 90 days limitation date.

Court calendars throughout the state have become heavier with each passing year. Along with the increased litigation has come an increased awareness by the trial courts of the calendar problems and a desire on their part to keep the calendars current. In many instances judges have lengthened their court hours, at least in individual cases. In almost all jurisdictions judges and assignment clerks are making special efforts to prevent the courts from being idle. As a result of this, practically all transcribing must be done during evening hours and on weekends. During the time a trial is in progress it is difficult for the reporter to produce transcript in any significant quantity, not only because of the limited time left to him but also because the work is arduous and the element of fatigue becomes an important factor.

In addition to this, much of the reporter's out of court time is spent in his capacity as secretary to the judge. This of course must take precedence over the transcribing of court cases, and while the time spent on this phase of the reporter's duties is a variable thing it is in many cases very considerable, and there are times when it is necessary to spend many hours preparing Orders and Findings and correspondence and doing related chores.

It is our opinion that to avoid a multiplicity of requests for extension of time to prepare transcripts by the district court reporters of this state, that a 90 day limitation is more realistic and a more reasonable time than the six weeks period of the original proposed rule.

As to the request for change of Paragraph (3), we feel that without some provision granting the reporter the right to petition the Court for more time the rule would be unworkable. It would seem to resolve itself only to a question of phraseology. Except for the addition of the words "or by the trial judge", the proposal would not appear to require any particular comment. These words were added because of the relationship of some judges with their reporters. Many judges of this state would feel that any contact with the Supreme Court or with its Administrator should be made through them. Also, the judge would have knowledge of the working conditions of the reporter during any given period, and any extenuating circumstances that may exist, and he would be in an excellent position to verify the facts and to convey the information to the Supreme Court through the Administrator.