

STATE OF MINNESOTA

IN SUPREME COURT

IT IS HEREBY ORDERED that Rule 107, Rule 108.01, Rule 133 and Rule 136.01 of the Rules of Civil Appellate Procedure are amended to read as follows:

RULE 107. BOND OR DEPOSIT FOR COSTS

A bond shall be executed by, or on behalf of, the appellant. The bond shall be conditioned upon the payment of all costs and disbursements awarded against appellant on the appeal, not exceeding the penalty of the bond which shall be at least \$500. In lieu of said bond, the appellant may deposit \$500 with the clerk of the trial court as security for such payment. The bond may be filed or the deposit may be made without approval or order of the trial court. The bond or deposit may be waived by written consent of the respondent which consent shall be filed with the clerk of the trial court.

RULE 108. SUPERSEDEAS BOND; STAYS

108.01 Supersedeas Bond

(1) An appeal from an order or judgment shall stay proceedings in the trial court and save all rights affected thereby, if the appellant provides a supersedeas bond in the amount and form which the trial court shall order and approve, in the cases provided in this Rule.

(2) If the appeal is from an order, the condition of the bond shall be the payment of the costs of the appeal, the damages sustained by the respondent in consequence of the appeal, and the obedience and satisfaction of the order or judgment which the Supreme Court may give, if the order or any part thereof is affirmed or if the appeal is dismissed.

(3) If the appeal is from a judgment directing the payment of money, the condition of the bond shall be the payment of the judgment

or that part of the judgment which is affirmed and all damages awarded against the appellant upon the appeal, if the judgment or any part thereof is affirmed, or if the appeal is dismissed.

(4) If the appeal is from a judgment directing the assignment or delivery of documents or personal property, the condition of the bond shall be the obedience of the order or judgment of the Supreme Court. The bond provided by this subdivision need not be given if the appellant places the document or personal property in the custody of the officer or receiver whom the trial court may appoint.

(5) If the appeal is from a judgment directing the sale or delivery or possession of real property, the condition of the bond shall be the payment of the value of the use and occupation of the property from the time of the appeal until the delivery of the possession of the property if the judgment is affirmed, and the undertaking that the appellant shall not commit or suffer the commission of any waste on the property while it remains in his possession during the pendency of the appeal.

(6) In cases not specified in subdivisions (2) to (5) hereof, the giving of the bond specified in Rule 107 shall stay proceedings in the trial court.

(7) Upon motion, the trial court may require the appellant to provide a supersedeas bond if it determines that the provisions of Rule 108 do not provide adequate security to the respondent.

**RULE 133. SUMMARY ACTION; PREHEARING CONFERENCE; CALENDAR**

**133.01 Summary Action**

(1) The Supreme Court, on its own motion or on motion of any party, may dismiss the appeal or other request for relief or may summarily affirm the order or judgment below if the Supreme Court lacks jurisdiction or if it clearly appears that the appeal presents no question of substantial merit; or the Supreme Court may limit the

issues to be considered on appeal to those which present a substantial question. In case of obvious error the Supreme Court may summarily reverse or remand for additional proceedings or grant other appropriate relief.

(2) Motions for such relief may be made at any time but shall be filed promptly when the occasion appears and shall comply with the requirements of Rule 127.

#### 133.02 Prehearing Conference

The Supreme Court may direct the attorneys for the parties to appear before the Supreme Court or a judge or a designated officer thereof for a prehearing conference to consider settlement, simplification of the issues, and such other matters as may aid in the disposition of the proceedings by the Supreme Court. The Supreme Court or judge thereof shall make an order which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of counsel. Such order when entered controls the subsequent course of the proceeding, unless modified to prevent manifest injustice.

#### 133.03 Calendar

No case shall be placed on the calendar for argument until after there has been filed in this court the appellant's brief and appendix and respondent's brief. If either appellants or respondents fail to file their brief within the time provided, or an extension thereof, the case shall be disposed of in accordance with Rule 142.

### RULE 136. NOTICE OF DECISION; JUDGMENT; REMITTITUR

#### 136.01 Notice of Decision; Summary Opinion

##### (1) Notice of Decision

Upon the filing of a decision or order which determines the matter, the clerk shall mail a copy thereof to the attorneys for

the parties and to the trial court. The mailing of such copy shall constitute notice of the filing.

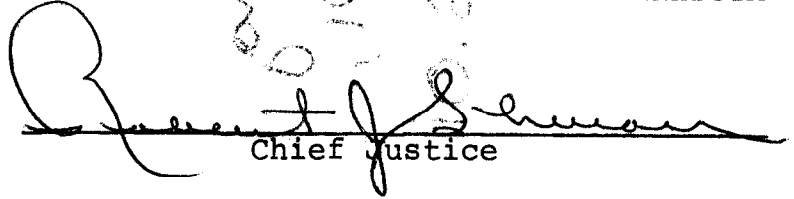
(2) Summary Opinion

In any case decided under Rule 133.01 or in any other case where the Supreme Court determines that a detailed opinion would have no precedential value, the Supreme Court in its discretion may enter the following summary opinion:

"Affirmed (or reversed or other appropriate direction for action), pursuant to Rule 136.01 (2)."

Dated: January 5, 1976

SUPREME COURT OF THE STATE OF MINNESOTA

  
Chief Justice

**SUPREME COURT  
FILED**

JAN 6 1976

**JOHN McCARTHY**  
CLERK