

STATE OF MINNESOTA

IN SUPREME COURT

ORDER OF PROMULGATION OF AMENDMENTS TO THE RULES  
OF CIVIL PROCEDURE IN THE DISTRICT COURTS OF  
THE STATE OF MINNESOTA AND APPENDICES THERETO

WHEREAS the Advisory Committee appointed by the Supreme Court under Section 480.052 Minn. Stat. has recommended to the court amendments to certain of the Rules of Civil Procedure in the District Courts and appendices thereto, and;

WHEREAS the recommended amendments were published and distributed to members of the Bar prior to the submission of briefs and the oral arguments which were heard on June 1, 1967, and whereas the court has considered said recommendations;

IT IS HEREBY ORDERED that the annexed amended Rules of Civil Procedure in the District Courts of the State of Minnesota as recommended by the Advisory Committee be further amended as follows:

1. Rule 13 - Restore number 13.08 so caption of text will read as follows:

"13.08 Joinder of Additional Parties"

2. Rule 36.01 - Request for Admission

In fourth sentence, change "10 days" to "15 days" as the period of time within which response must be made to the request for admission.

Add the following after Rule 36.01:

"Advisory Committee Note"

"The period of time for response to requests for admission is changed from 10 days to 15 days in order to conform the time limit to that prescribed in Rule 33 relating to interrogatories."

3. Rule 35.03 - Waiver of Medical Privilege

Change the first sentence of the Rule to read in part as follows:

"If at any stage of an action a party voluntarily places in controversy the physical, mental, or blood condition of himself, of a decedent, or a person under his control, . . ."

Also delete last paragraph of Advisory Committee Note to Rule 35.03 commencing with the words "Protective orders . . ."

4. Add Rule 35.04 and the Note as prepared by the Advisory Committee reading as follows:

"Rule 35.04 Medical Disclosures and Depositions of Medical Experts.

When medical privilege has been waived by a party under Rule 35.03, such party within ten days of a written request by any other party,

a) shall furnish to the requesting party copies of all medical reports previously or thereafter made by any treating or examining medical expert, and

b) shall provide written authority signed by the party of whom request is made to permit the inspection of all hospital and other medical records,

concerning the physical, mental or blood condition of such party as to which privilege has been waived.

Depositions of treating or examining medical experts shall not be taken except upon order of the court for good cause shown upon motion and notice to the parties and upon such terms as the court may provide.

Disclosures under this Rule shall include the conclusions of such treating or examining medical expert.

Advisory Committee Note

Medical records as used in this Rule include the office records of any medical expert, and x-rays, E.E.G.'s and all similar items. The limitation on depositions of medical experts is applicable to both treating and examining medical experts. The purpose for the limitation is to insure that depositions of medical experts will be taken only upon court order. In making its order the court can

and should consider the extent of medical disclosure through medical reports and inspection of hospital and medical records. Protective orders under Rule 30.02 are available to the parties to further limit or prevent involuntary medical examination or disclosure of medical information in those cases where the protection provided in Rule 35.04 is not sufficient. Rule 37 will provide the means for obtaining a court order requiring a party to comply with the disclosure requirements of Rule 35.04. At such Rule 37 hearing, the court may properly determine whether or not the medical information sought is the same physical, mental or blood condition as to which privilege has been waived.

The limitation on depositions is not applicable to the taking of the testimonial deposition of a party's own medical expert."

5. Rule 86.02 - Effective Date of Amendments

Insert "November 10, 1967" and "February 1, 1968" in the blank spaces.

6. Amend Appendix A by adding the following at the end of the Appendix and after the words "Writ of ne exeat":

"Writ of mandamus"

7. Amend Appendix B(1) by inserting the following in appropriate order:

"Rule 65 ----- 585.01 thru 585.04 to extent inconsistent"

8. Amend Appendix B(2) by inserting the following in appropriate order:

"585.01 - .04 ----- to extent inconsistent --- Rule 65"

NOW, THEREFORE, IT IS ORDERED that as so amended the hereto annexed amended Rules of Civil Procedure in the District Courts of the State of Minnesota and the amendments to the appendices thereto be, and the same hereby are, promulgated and shall be effective on February 1, 1968. The inclusion of the Advisory Committee Notes is made for convenience and does not necessarily reflect court approval of the comments made in said notes.

Dated November 10, 1967.

BY THE COURT:



Chief Justice

November 10, 1967

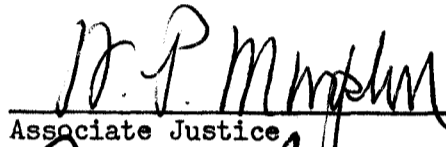
The attached order promulgating amendments to the Rules of Civil Procedure for the District Courts is approved.



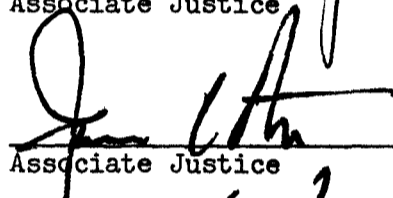
Chief Justice



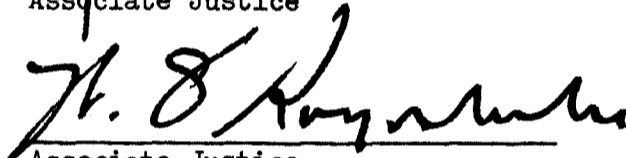
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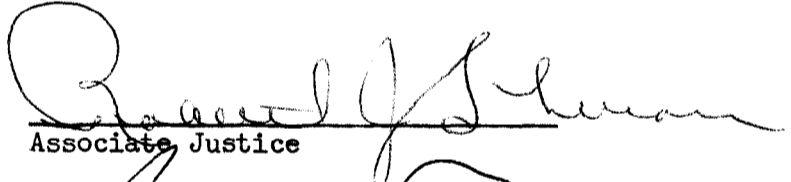
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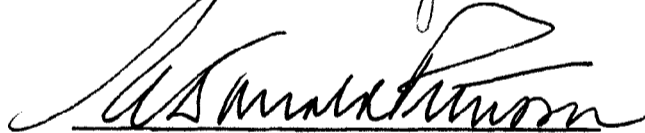
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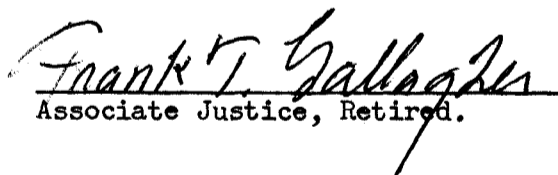
Associate Justice



Associate Justice



Associate Justice



Associate Justice, Retired.