STATE OF MINNESOTA

IN SUPREME COURT

FILE NO. 35394-5

IN THE MATTER OF THE PROPOSED AMENDMENTS TO RULES 3, 5 AND 41.02 OF THE RULES OF CIVIL PROCEDURE FOR THE DISTRICT COURTS AND MUNICIPAL COURTS.

O R D E R

The above-entitled matter came on for hearing before the Minnesota Supreme Court on Thursday, July 10, 1980.

It is the unanimous opinion of the Court that insofar as the proposed amendment would require that all complaints be filed with the Clerk of Court within a fixed period after service thereof, the petition should be and is denied.

DATED: July 10, 1980.

BY THE COURT

Robert J. Sheran, Chief Justice

SUPREME COURT
FILED
JUL 11 1980
JOHN McCARTHY
CLERK

LEVANDER, ZIMPFER & ZOTALEY
A PROFESSIONAL ASSOCIATION
LAWYERS
720 NORTHSTAR CENTER (CARGILL BUILDING)
625 MARQUETTE AVENUE
MINNEAPOLIS, MINNESOTA 55402

BERNHARD W. LEVANDER
BERNARD G. ZIMPFER
BYRON L. ZOTALEY
JAMES G. VANDER LINDEN
ROBERT H. RYDLAND

TELEPHONE (612) 339-6841

July 2, 1980

The Honorable Robert Sheran,
Chief Justice of the Minnesota
Supreme Court, and
Members of the Court
State Capitol
St. Paul, Minnesota 55155

35394-5

RE: Amendments to Rules of
Civil Procedure.

Dear Chief Justice and Members of the Court:

I wish to register my opposition to the proposed change in the Rules of Civil Procedure which would require filing of a Complaint within ten days after the commencement of an action. I see no good reason why this rule should come into being and many reasons why it would be unsound.

I think the sentiment of the Bar is generally very much in opposition to this change.

If it is intended to eliminate frivolous litigation, I would much rather see toughening up on Rule 11 and generally more stringent sanctions to discourage abuse of the litigation process by members of the Bar.

Respectfully yours,

Bernhard W. LeVander

Bernhard W. LeVander

BWL/lp

STATE OF MINNESOTA
DISTRICT COURT OF MINNESOTA
FOURTH JUDICIAL DISTRICT

CHAMBERS OF
JUDGE BRUCE C. STONE
COURT HOUSE
MINNEAPOLIS, MINN. 55415

July 2, 1980

Chief Justice Robert J. Sheran
Minnesota Supreme Court
State Capitol
St. Paul, Minnesota 55155

Dear Chief Justice Sheran:

The Minnesota District Judges Association has requested I inform the Minnesota Supreme Court that the matter of required filing of complaints within 10 days after service came before the Association in Rochester and that the resolution that the proposal be disapproved passed unanimously, with no one recorded as being in favor of the required filing.

Kindest personal regards and best wishes.

Sincerely,

Bruce C. Stone

Bruce C. Stone
Judge of District Court
President, Minnesota
District Judges
Association

BCS/sjl

THE SUPREME COURT OF MINNESOTA
ST. PAUL

OFFICE OF
STATE COURT ADMINISTRATOR

40 North Milton Street
Suite 304
St. Paul, Minnesota 55104
July 9, 1980

The Honorable Robert J. Sheran
Chief Justice
Minnesota Supreme Court
Room 230
State Capitol
St. Paul, Minnesota 55155

Dear Justice Sheran:

I am writing to advise the Court regarding the impact of the proposed amendments to the Rules of Civil Procedure would have on the State Judicial Information System (SJIS). Our office is specifically interested in the proposed Rule 3.03, requiring the filing of a complaint in civil cases. Although SJIS can and does operate without such a requirement, we respectfully request that you adopt the proposed rules.

If the proposals are not adopted, SJIS will continue to operate as it does at present. Because the system needs a uniform case initiation point, SJIS employs either of the following initiation points: a party's request for a trial by court or jury through applicable filing procedures, or a request for the court's intervention through the process of filing and serving motions. This method is inadequate. First, it is not uniform. Second, it does not allow the court to fulfill its statutory duty to expedite some cases (e.g., declaratory judgments, commitment proceedings, domestic abuse). Third, it frustrates SJIS's attempt to provide the court with a means to monitor unreasonable delay in processing cases.

In a practical sense, it then becomes an insurmountable task for the clerk of court to distinguish between those cases that should be expedited upon filing, and those that require action on the part of the parties to the case. We suggest that with the requirement of the filing of the petition or complaint in all civil matters, several desirable objectives would be accomplished:

1. The court under whose authority the matter is being brought is made aware of the existence of a case;

2. The court acquires a well-defined common standard for activating or initiating judicial processing of a case;

3. Designating a standard point of case initiation provides the court with a valid measurement of delay. The absence of such a measure diminishes any benefits that might be derived from the proposed changes to Rule 41.02;

4. The SJIS task of providing an automated method of managing the speedy disposition of matters brought before the court is significantly simplified.

In sum, adoption of the proposed rule changes would greatly improve the ability of the court and its administrative departments to manage the justice system. The requested changes are reasonable and have been proven successful in all other states in which they have been implemented.

Sincerely,

Jane F. Morrow

Jane F. Morrow
Project Manager
State Judicial Information System

JFM:pe

cc: Supreme Court Justices
Laurence C. Harmon
James R. Rebo

William A. Crandall
District 61A
Hennepin County
Committees:
Criminal Justice
Health and Welfare
Judiciary

Minnesota House of Representatives

Rodney N. Searle, Speaker

July 10, 1980

Mr. John McCarthy
Clerk of the Minnesota
Supreme Court
230 State Capital Building
St. Paul, Minnesota 55155

Dear Mr. McCarthy:

It is my understanding that the Supreme Court is considering the adoption of a rule which would require that all pleadings in any law suit be filed within twenty days after service of an answer on the Plaintiff's attorney. I have discussed this with several attorney's as well as members of the Minnesota State Legislature. I can see no value in such a requirement. As you may know often times cases are sued out and then settled prior to the matter being filed with the court. It would appear to me that this is just imposing an additional burden of filing fees upon the public unnecessarily. I would hope the court would reconsider this rule and decide instead not to impose such a rule of the public or the bar.

Yours very truly,

Wm A. Crandall

Representative William A. Crandall

WAC/kc

Reply to: ☐ 355 State Office Building, St. Paul, Minnesota 55155 (612) 296-4127
☐ 5147 Columbus Ave. S., Minneapolis, Minnesota 55417 (612) 825-4719

THE SUPREME COURT OF MINNESOTA
ST. PAUL

OFFICE OF
STATE COURT ADMINISTRATOR

40 North Milton Street
Suite 304
St. Paul, Minnesota 55104
July 8, 1980

The Honorable Robert J. Sheran
Chief Justice
Minnesota Supreme Court
State Capitol
St. Paul, Minnesota 55155

Dear Justice Sheran:

Enclosed is the report of the Trial Court Information System Advisory Committee on proposed amendments to Civil Rules 3.03 and 41.02.

Very truly yours,

David C. Osborne
Project Manager
Trial Court Information System

DCO:pe
enc.

cc: Supreme Court Justices
Laurence C. Harmon
James R. Rebo

bcc: TCIS Advisory Committee Members
Ex-Officio Members

MEMORANDUM

TO: Justices of the Minnesota Supreme Court

FR: Trial Court Information System Advisory Committee

DT: July 8, 1980

RE: Proposed Amendments to Minnesota Rules of Civil Procedure Rule 3, Rule 5.04, and Rule 41.02.

The Trial Court Information System (TCIS) project was instituted under the auspices of the Minnesota State Court Administrator. The objective of the project, funded by a federal grant to the Supreme Court, is to improve the effectiveness of court case recordkeeping and caseload management practices in the trial courts. It operates on the assumption that by managing court records effectively and moving the caseload expeditiously, the quality of justice will improve. The long-term goals of the project, in addition to those stated above, are: 1) to create recordkeeping practices consistent with the Minnesota Statutes and statewide court rules, 2) to improve the accuracy and accessibility of court records, 3) to institute control of the cost of clerking and court management, and 4) to make management information about the trial courts more effectively and economically available to all agencies who have a legitimate need for it.

The TCIS Advisory Committee was established to provide guidance for work performed by the TCIS project of the Information Systems Office of the Minnesota Supreme Court. The committee was created to draw upon the administrative expertise present in the Minnesota court system. The committee includes judges, administrators, and clerks of court from across the state. The current voting membership consists of ten members:

Honorable John J. Todd	Supreme Court Justice
Pete Archer	Supervisor of Assignment Division, Ramsey County Municipal Court
John McCally	Clerk of Court, Olmsted County
Dennis Chemberlin	Administrative Assistant, Fourth Judicial District
Gerald J. Winter	District Administrator, Fifth Judicial District
Larry Saur	Clerk of Court, Lake County
Honorable Roger Klaphake	County Court Judge, Stearns County
Paul Maatz	Clerk of Court, Lac Qui Parle County
Richard Monsrud	Clerk of Court, Roseau County
Honorable John Dablow	District Court Judge, Tenth Judicial District

In addition to the voting members, the committee has 18 ex-officio members--eight District Administrators, the four other TCIS pilot county clerks of court, three members of the Supreme Court staff, and other court personnel having special expertise.

The following comments have been prepared by the TCIS project staff. The content reflects the philosophical direction of the TCIS Advisory Committee. However, the comments have not yet been adopted by the committee.

Recommended Rule Amendments

The Court Administration Subcommittee of the Conference of Chief Judges and Assistant Chief Judges has proposed amendments of Minnesota Rules of Civil Procedure 3.03 and 41.02. The TCIS Advisory Committee has considered those proposals and approves of their intent. However, they suggest that the following proposals better facilitate management by the Clerks of Court and ought to be adopted.

1. Rule 3.03 should be amended by adopting a rule more similar to Rules 3 and 4(a) of the Federal Rules of Civil Procedure.

> "A civil action is commenced by filing a complaint with the court. Upon the filing of the complaint the clerk of court shall issue a summons for service. Upon request of the plaintiff, separate or additional summonses shall issue against any defendants."

2. Rule 5.04(4) should be amended to require filing with the clerk.

> (4) Filing With The Court Defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of court~~, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk~~.

3. Rule 41.02(3)(A) should be amended to make dismissals for want of prosecution permissive (rather than required) and to allow for review of the dismissal order.

(3) Dismissal on Court's Motion.

(A) Notice. In all civil cases wherein there has been no note of issue or certificate of readiness filed during the 24 months just past, the court shall mail notice to the attorneys of record setting a hearing within 30 days from the date of mailing such notice for the purpose of dismissing such case for want of prosecution. If an application in writing is not made to the court for good cause shown why it should be continued as a pending case before said hearing, or if none of the parties or their attorneys appear at the time and place set for said hearing, or if good cause is not shown, the court ~~shall~~ may dismiss each such case without prejudice. If at or before said hearing it is shown that the failure to take steps or proceedings is not due to the plaintiff's fault or lack of reasonable diligence on his part, the action will not be dismissed. The court may then order the action set down for final disposition at a specified date, or place it on the calendar for trial, ~~or~~ hearing, or review in due course.

Commentary

The TCIS Advisory Committee and staff urge the adoption of the above rules. The proposals correspond with the committee's belief that courts, not attorneys, should have the fundamental responsibility to manage litigation and invoke the authority of the judiciary.

Under the present system, attorneys have concocted a shadow legal system invoking the power of the courts without the courts' approval or knowledge. Currently, attorneys are able to draw up complaints and serve them on adverse parties without the court's sanction. The complaints, however, are on paper captioned with the name of the court, leading one to infer that the papers have the court's imprimatur. This erroneous assumption might coerce behavior or settlements without actual court involvement. The harm in this system is that the court's power is utilized to resolve disputes without the court's knowledge. Frivolous suits may be wrongfully given legitimacy because they bear the name of the court on the complaint.

Another reason for adopting the rule changes is to assure a uniform starting point for cases to enable a valid measure for delay. The State Judicial Information System (SJIS) is predicated upon the filing of the civil complaint as the commencement point of a civil case. Without the requirement of filing, SJIS has no

consistent indicator of the beginning of a case; consequently, there will be no uniform way to determine the age of the case or when it should proceed. Comparable statistics will be impossible to compile. Standard review for delay, incorporated in proposed Rule 41.02, is possible only if there is a standard initiation point.

It may be argued that the changes are unnecessary because no current abuses, other than the shadow legal system, exist. The logic behind this argument is flawed. It presupposes that reform is appropriate only to repair a system. Reform may also be necessary to protect or improve a system. Reform ought to be justified according to the potential for abuse, rather than because abuse has been demonstrated. The types of potential abuse might not be subject to review. If a party obtains an unfair settlement in the informal system, who will discover and rectify it?

The proposed changes are not earthshakingly new: the federal courts and a majority of states have implemented similar procedures without the presupposed deleterious effects. Some cases in Minnesota already have similar filing requirements, the proposal is merely an extension of existing practices. The Legislature has already required the filing of a complaint for initiation of proceedings in unlawful detainers, mechanics liens, and domestic abuse cases.

Similar reforms have been suggested for the past twenty-eight years. The adoption of the Minnesota Rules of Civil Procedure has caused several procedural and administrative improvements. The suggested changes are refinements of those improvements, facilitated by the availability of computer technology. They will enable the courts to track all cases, identify possible abuse situations, and provide remedies.

It may also be argued that adoption of the changes will not ensure that all cases are filed. That is true but it is of no import. The goal of the changes is not to require the filing of all disputes. The goal is to prohibit the invocation of the court's authority without the court's knowledge or approval, and to identify unduly prolonged litigation to facilitate curative measures.

It may also be argued that the requirements are merely designed to increase court revenues through increasing the number of filings and hence, filing fee revenues. This is not the intent of the reform. If it does appear to be a long-term side effect, the fee per filing could be lowered. However, not to implement the reforms because of that reason would be a mistake. The beneficial aspects of the reforms would be lost.

Our committee believes that it is time to judge the proposals on their merits and their ability to improve court management, and not to reject them for political reasons.

The TCIS Advisory Committee, in support of improved court management, respectfully requests that the Minnesota Supreme Court approve the proposed rule amendments as presented in this document.