

STATE OF MINNESOTA

IN SUPREME COURT

C6-84-2134

**ORDER PROMULGATING AMENDMENTS
TO THE RULES OF CIVIL PROCEDURE**

The Minnesota Legislature has created a new statutory process for service and enforcement of orders for protection that allows a law enforcement officer to serve a respondent with a "short form notification" in lieu of the formal order for protection. *See* Act of Ap. 24, 2000, ch. 437, §§ 2-3 (amending Minn. Stat. § 518.01, subd. 8 and adding subd. 8a). Rule 4.06, Minn. R. Civ. P., authorizes sheriffs to prove service by certificate. The Supreme Court Orders for Protection Business Practice Subcommittee has requested extension of that authority to other law enforcement officers to facilitate efficient use of the short form notification.

By order filed April 13, 2000, the Court amended Minn. R. Civ. P. 11, but the amended version was not internally numbered in a format consistent with the Minnesota Rules of Civil Procedure. It is necessary therefore to renumber the amended rule.

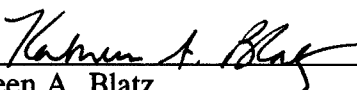
NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

The attached amendments to the Rules of Civil Procedure are adopted, prescribed and promulgated to be effective on August 1, 2000.

Dated: June 20, 2000

BY THE COURT:

OFFICE OF
APPELLATE COURTS



Kathleen A. Blatz
Chief Justice

JUN 20 2000

FILED

RULE 4. SERVICE

* * * *

Rule 4.06. Return

Service of summons and other process shall be proved by the certificate of the sheriff or other peace officer making it, by the affidavit of any other person making it, by the written admission or acknowledgement of the party served, or if served by publication, by the affidavit of the printer or the printer's designee. The proof of service in all cases other than by published notice shall state the time, place, and manner of service. Failure to make proof of service shall not affect the validity of the service.

RULE 11. SIGNING OF PLEADINGS, MOTIONS, AND OTHER PAPERS; REPRESENTATIONS TO COURT; SANCTIONS

11.01.(a) Signature.

Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any, and attorney registration number if signed by an attorney. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

11.02.(b) Representations to Court

By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,

(1a) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2b) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3c) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4d) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

11.03.(e) Sanctions

If, after notice and a reasonable opportunity to respond, the court determines that ~~subdivision (b) of this rule~~ Rule 11.02 has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated ~~subdivision (b)~~ Rule 11.02 or are responsible for the violation.

(1a) How Initiated.

(A1) By Motion. A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate ~~subdivision (b)~~ Rule 11.02. It shall be served as provided in Rule 5, but shall not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(B2) On Court's Initiative. On its own initiative, the court may enter an order describing the specific conduct that appears to violate ~~subdivision (b)~~ Rule 11.02 and directing an attorney, law firm, or party to show cause why it has not violated ~~subdivision (b)~~ Rule 11.02 with respect thereto.

(2b) Nature of Sanction; Limitations. A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in ~~subparagraphs (A) and (B)~~ Rules 11.03(a)(1) and (2), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney fees and other expenses incurred as a direct result of the violation.

(A1) Monetary sanctions may not be awarded against a represented party for a violation of ~~subdivision (b)(2)~~ Rule 11.02(b).

(B2) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.

(3c) Order. When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this rule and explain the basis for the sanction imposed.

11.04.(d) Inapplicability to Discovery

~~Subdivisions (a) through (c) of this rule~~ Rules 11.01-.03 do not apply to discovery requests, responses, objections, and motions that are subject to the provisions of Rules 26 through 37.