

STATE OF MINNESOTA

IN SUPREME COURT

C6-84-2134

OFFICE OF  
APPELLATE COURT

DEC 21 2000

Order Promulgating Amendments to  
Rules of Civil Procedure

**FILED**

O R D E R

The Supreme Court Advisory Committee on Rules of Civil Procedure has recommended certain amendments to the Rules of Civil Procedure.

By order dated October 10, 2000, the Court solicited comments on the proposed amendments to be filed no later than December 1, 2000.

The Court has reviewed the comments received and the proposed amendments and is fully advised in the premises.

IT IS HEREBY ORDERED that:

1. The attached amendments to the Rules of Civil Procedure be, and the same are, prescribed and promulgated to be effective on March 1, 2001.
2. These amendments shall apply to all actions or proceedings pending on or commenced on or after the effective date, with the exception of the amendments to Rule 59. The amendments to Rule 59 shall apply to all actions or proceedings commenced on or after the effective date and all actions or proceedings pending on or decided before the effective date in which the time periods stated in the former Rule 59 have not expired.

4. The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the statements made therein.

Dated: December 19, 2000

BY THE COURT:



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Kathleen A. Blatz  
Chief Justice

# Amendments to the Rules of Civil Procedure

## RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

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### Rule 5.04. Filing; Certificate of Service

All papers after the complaint required to be served upon a party, together with a certificate of service, shall be filed with the court within a reasonable time after service, except expert disclosures and reports, depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless upon order of the court or for use in the proceeding.

The administrator shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by ~~these rules or any local court rules~~ or practices.

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#### Advisory Committee Comment—2000 Amendments

The last sentence of Rule 5.04 is changed to broaden the direction to court administrators not to reject documents for filing for noncompliance with the form requirements of the rules. The rule as amended makes it clear that those form requirements, regardless of which set of rules contains them, should not be the basis for a refusal to file the document. Any deficiency as to form should be dealt with by appropriate court order, including in most cases an opportunity to cure the defect.

## RULE 10. FORM OF PLEADINGS

### Rule 10.01. Caption; Names of Parties

Every pleading shall have a caption setting forth the name of the court and the county in which the action is brought, the title of the action, the court file number if one has been assigned, and a designation as in Rule 7, and, in the upper right hand corner, the appropriate case type indicator as set forth in the subject matter index included in the appendix as Form 23. If a case is assigned to a particular judge for all subsequent proceedings, the name of that judge shall be included in the caption and adjacent to the file number. In the complaint, the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the first party on each side with an appropriate indication of other parties.

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**Advisory Committee Comments—2000 Amendments**

Rule 10.01 is amended to facilitate case management and document management in cases where a judge has been assigned to the case. By placing the judge's name on the caption, it is often possible to expedite the delivery of filed documents to that judge. This provision is commonly required in federal court cases where all matters are assigned to a judge, including in the United States District Court for the District of Minnesota. *See* LR 5.1 (D. Minn.). The rule is also amended to require the inclusion of a court file number if one has been assigned.

**RULE 50. MOTION FOR A DIRECTED VERDICT;  
JUDGMENT NOTWITHSTANDING VERDICT;  
ALTERNATIVE MOTION**

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**Rule 50.02. Judgment Notwithstanding Verdict**

(a) A party may move that judgment be entered notwithstanding the verdict or notwithstanding the jury has disagreed and been discharged, whether or not the party has moved for a directed verdict, and the court shall grant the motion if the moving party would have been entitled to a directed verdict at the close of the evidence.

(b) A motion for judgment notwithstanding the verdict may include in the alternative a motion for a new trial.

(c) A motion for judgment notwithstanding the verdict or notwithstanding the jury has disagreed and been discharged shall be ~~made~~ served and heard within the times specified in Rule 59 for the ~~making~~ service and hearing of a motion for a new trial and may be made on the files, exhibits, and minutes of the court. On a motion for judgment notwithstanding the jury has disagreed and been discharged, the date of discharge shall be the equivalent of the date of rendition of a verdict within the meaning of that rule, but such motion must in any event be ~~made~~ served and heard before a retrial of the action is begun.

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**Advisory Committee Comment—2000 Amendments**

Although the text of this Rule 50.02 is not changed substantively by these amendments, it is worth noting that Rule 59.03, governing the time for filing a motion for a new trial is changed to expand the time from 15 days to 30 days for filing the motion and from 30 days to 60 days for having the motion heard. This amendment has the practical effect of extending the time for filing a motion under Rule 50 because Rule 50.02(c) incorporates the filing and hearing time limits of Rule 59.

## RULE 52. FINDINGS BY THE COURT

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### Rule 52.02. Amendment

Upon motion of a party ~~made~~ served and heard not later than the times allowed for a motion for new trial pursuant to Rule 59.03, the court may amend its findings or make additional findings, and may amend the judgment accordingly if judgment has been entered. The motion may be made with a motion for a new trial and may be made on the files, exhibits, and minutes of the court. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the district court an objection to such findings or has made a motion to amend them or a motion for judgment.

#### Advisory Committee Comment—2000 Amendments

Although the text of this Rule 52.02 is not changed substantively by these amendments, it is worth noting that Rule 59.03, governing the time for filing a motion for a new trial is changed to expand the time from 15 days to 30 days for filing the motion and from 30 days to 60 days for having the motion heard. This amendment has the practical effect of extending the time for filing a motion for amended findings under Rule 52 because Rule 52.02 incorporates the filing and hearing time limits of Rule 59.

## RULE 59. NEW TRIALS

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### Rule 59.03. Time for Motion

A notice of motion for a new trial shall be served within ~~15~~ 30 days after a general verdict or service of notice by a party of the filing of the decision or order; and the motion shall be heard within ~~30~~ 60 days after such general verdict or notice of filing, unless the time for hearing be extended by the court within the ~~30~~ 60-day period for good cause shown.

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#### Advisory Committee Comment—2000 Amendments

The single purpose of the amendment of this Rule 59.03 in 2000 is to create a longer and more reasonable period in which to hear post-trial motions. At the time this rule was adopted, post-trial motions were often heard in a somewhat perfunctory manner and court assignment practices permitted the scheduling of cases in this manner.

This amendment will also reduce, although not eliminate, the potential consequences of failing to have a post-trial motion heard in a timely manner.

The change in Rule 59 will serve to extend the deadline for other post-trial motions as well, because the current rules specifically tie the deadlines for those motions to Rule 59. *See* MINN. R. CIV. P. 50.02(c) (judgment notwithstanding the verdict); 52.02 (motion for amended findings). It will also have an indirect impact on Rule 60.02(b), which allows for relief from an order or judgment on the grounds of newly discovered evidence which could not have been discovered in time to move for a new trial. This latter impact will be negligible.

## **RULE 63. DISABILITY OR DISQUALIFICATION OF JUDGE; NOTICE TO REMOVE; ASSIGNMENT OF A JUDGE**

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### **Rule 63.03 Notice to Remove**

Any party or attorney may make and serve on the opposing party and file with the administrator a notice to remove. The notice shall be served and filed within ten days after the party receives notice of which judge or judicial officer is to preside at the trial or hearing, but not later than the commencement of the trial or hearing.

No such notice may be filed by a party or party's attorney against a judge or judicial officer who has presided at a motion or any other proceeding of which the party had notice, or who is assigned by the Chief Justice of the Minnesota Supreme Court. A judge or judicial officer who has presided at a motion or other proceeding or who is assigned by the Chief Justice of the Minnesota Supreme Court may not be removed except upon an affirmative showing of prejudice on the part of the judge or judicial officer.

After a party has once disqualified a presiding judge or judicial officer as a matter of right that party may disqualify the substitute judge or judicial officer, but only by making an affirmative showing of prejudice. A showing that the judge or judicial officer might be excluded for bias from acting as a juror in the matter constitutes an affirmative showing of prejudice.

Upon the filing of a notice to remove or if a litigant makes an affirmative showing of prejudice against a substitute judge or judicial officer, the chief judge of the judicial district shall assign any other judge of any court within the district, or a judicial officer in the case of a substitute judicial officer, to hear the cause.

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### **Advisory Committee Comments— 2000 Amendments**

Rule 63.03 is amended to make clear the fact that a judge specially assigned by the Chief Justice to hear cases originally pending in more than one district cannot be

removed by mere filing of a notice to remove. This amendment is a companion to the amendment of Rule 113.03 of the Minnesota General Rules of Practice in 2000, effective March 1, 2001, to provide a formal mechanism for requesting the Chief Justice to make such an assignment. This rule codifies the existing practice in special cases such as special assignment of a judge by the Chief Justice. The rule makes it clear that even a judge assigned by the Chief Justice may be removed for cause.

## **RULE 65. INJUNCTIONS**

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### **Rule 65.04 Form and scope of injunction or restraining order**

Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

#### **Advisory Committee Comments— 2000 Amendments**

This rule is entirely new in the Minnesota rules; it is drawn directly from FED. R. CIV. P. 65(d). There is no comparable provision currently in the Minnesota rules and questions do arise about what is necessary to make sure that a party is subject to a court's injunctive order. The amended rule is intended to resolve those questions.