

STATE OF MINNESOTA

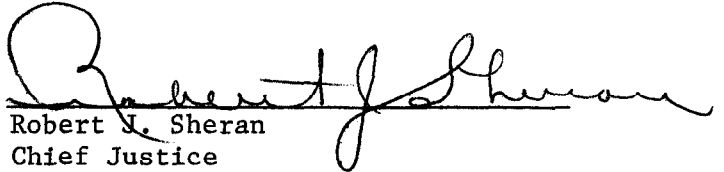
IN SUPREME COURT

ORDER OF PROMULGATION OF THE RULES OF  
CONCILIATION COURTS WHERE ESTABLISHED  
BY THE COUNTY COURTS OF THE STATE OF  
MINNESOTA

IT IS HEREBY ORDERED that the attached rules for Conciliation Courts where established by the County Courts in the State of Minnesota are adopted, prescribed and promulgated by the Supreme Court pursuant to Laws 1971, Chapter 951.

Dated: February 18, 1975

BY THE COURT:

  
Robert N. Sheran  
Chief Justice

SUPREME COURT  
FILED

FEB 20 1975

JOHN McCARTHY  
CLERK

RULES FOR ESTABLISHMENT OF CONCILIATION COURT; FOR PROCEDURE  
THEREIN; AND REMOVAL OF CAUSES THEREFROM

1.01 ESTABLISHMENT

There is hereby established, within the civil and criminal division of \_\_\_\_\_ County Court, a conciliation court, with jurisdiction and powers hereinafter stated.

1.02 JURISDICTION

Excepting actions involving title to real estate, conciliation court has jurisdiction to hear, conciliate, try and determine civil actions at law where the amount in controversy does not exceed the sum of \$500.00 or such other amount as may be prescribed by law from time to time. Territorial jurisdiction of conciliation court is coextensive with the boundaries of the County of \_\_\_\_\_.

1.03 POWERS; ISSUANCE OF PROCESS

Conciliation court has all the power of the county court and may issue process as necessary or proper to carry out the purposes of conciliation court.

1.04 TERMS OF COURT

The judge(s) shall hold terms of court as necessary to hear and dispose of all claims promptly after filing.

1.05 COMPUTATION OF TIME

In computing any period of time prescribed herein, the day of the act, event or default, after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included unless it falls on a Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. When the period of time prescribed is less than seven days, intervening Sundays and holidays shall be excluded in the computation.

1.06 JUDGE(S); CLERK; REPORTERS; SALARIES; QUARTERS & SUPPLIES; FULL AND PART TIME JUDICIAL OFFICERS

1. The judge(s) and full and part time judicial officers of the county court shall serve as judge(s) of conciliation court for such periods and at such times as the judge(s) shall determine. A judge or judicial officer so serving shall be known as a conciliation judge.

2. The Clerk of the County Court shall serve as the Clerk of Conciliation Court, and may delegate a deputy clerk or clerks to assist him in performing his duties herein prescribed. The clerk shall keep records and accounts and perform such duties as may be prescribed by the judge(s). He shall account for, and pay over to the official entitled thereto, all fees received by him in the same fashion required in his capacity as Clerk of the County Court.

3. Each court reporter appointed by a judge of county court shall assist that judge in carrying out his duties as conciliation judge, but unless ordered to do so by that judge, he shall not report trials or proceedings in conciliation court.

4. The judge(s), clerk, deputy clerks, and court reporters shall receive only their salaries payable for serving as officers of county court while serving in conciliation courts. All oaths taken and bonds given by the judge(s), clerk, deputy clerks and court reporters for their respective offices in county court include their acts in conciliation court, whether or not so expressed therein.

5. Quarters for holding sessions of conciliation court shall be any of the regular places of holding county court sessions as prescribed herein. Sessions of conciliation court shall be held at the following locations, at the times indicated:

\_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ .m.  
\_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ .m.

The clerk shall procure and furnish necessary forms, stationery, books and other supplies necessary for use of the court, cost thereof to be part of the budget of the county court.

#### 1.07 COMMENCEMENT OF ACTION

An action is commenced against a defendant when a complaint is filed with the Clerk of Conciliation Court and a filing fee as established by rule of the County Court pursuant to M.S. 487.31 is paid to the Clerk.

#### 1.08 COMPLAINT; CONTENTS; VERIFICATION

The complaint shall contain a brief statement of the amount, date of accrual and nature of the claim, and name and address of the plaintiff and the defendant. The clerk shall prepare the complaint upon request. The complaint shall be verified by the plaintiff.

#### 1.09 SUMMONS; TRIAL DATE

When an action has been properly commenced the clerk shall set a trial date, advising plaintiff thereof. The clerk shall summon the defendant by mail or personal service; the summons shall state the amount and nature of the claim; require the defendant to appear at the hearing in person or if a corporation, by officer or agent and without attorney except by leave of the court; shall specify that if he does not appear judgment by default will be entered against him for the relief demanded, and shall summarize the requirements for filing a counterclaim, unless otherwise ordered by a judge, the hearing date shall be not less than 10 days from the date of mailing or service of the summons.

#### 1.10 COUNTERCLAIM

The defendant may interpose a counterclaim within jurisdiction of conciliation court which he has against the plaintiff, whether or not arising out of the transaction or occurrence which is the subject matter of plaintiff's claim. The counterclaim shall be interposed by defendant filing with the clerk a brief statement of the amount, date of accrual and nature of the counterclaim, verified by the defendant, and by payment of defendant of a filing fee as established by rule of the county court pursuant to M.S. 487.31 to the clerk. The clerk shall draw up the counterclaim on request. The clerk shall note the filing of the counterclaim on the original claim, promptly notify plaintiff by mail thereof and set the counterclaim for hearing on the same date as the original claim. No counterclaim shall be filed less than five days of the trial date of plaintiff's claim except by permission of the judge who may in his discretion allow a filing within said five day period. Should a continuance be requested by and granted to plaintiff because of such late filing, the judge may require payment of costs by defendant, absolute or conditional, not to exceed \$25.00.

#### 1.11 COUNTERCLAIM IN EXCESS OF COURT'S JURISDICTION

If the defendant not less than five days of the date set for trial of plaintiff's complaint, files with the clerk an affidavit stating that:

- 1) he has a counterclaim against plaintiff arising out of the same transaction or occurrence as plaintiff's claim, the amount of which is beyond monetary jurisdiction of the conciliation court, and
- 2) he has filed or intends to file within 30 days an action against plaintiff in a court of competent jurisdiction based on such claim, the clerk shall strike plaintiff's action from the calendar, advising plaintiff by mail. Said striking shall be subject to reinstatement at any time after thirty days and up to three years, upon the filing by plaintiff of an affidavit showing that he has not been served with a summons by defendant. If the action is reinstated, the clerk shall set the case for trial and summon the defendant as originally whereupon the court shall hear and determine the matter.

#### 1.12 TRIAL

1. Testimony and Exhibits. The judge shall hear testimony of the parties, their witnesses, and shall consider exhibits offered by the parties.

2. **Appearances.** Appearances in conciliation court shall be by the parties, without attorneys, except by leave of the court; a removal of the cause to county court, however, as provided in these rules, may be taken through an attorney at law.

3. **Evidence.** The judge shall normally receive only evidence admissible under the rules of evidence, but in his discretion, in the interests of justice, he may receive otherwise inadmissible evidence.

4. **Conciliation; Judgment.** If the parties agree on a settlement the judge shall order judgment in accordance therewith. If no agreement is reached, the judge shall summarily hear, determine the cause, and order judgment.

5. **Failure of Defendant to Appear.** If the defendant fails to appear at the time set for hearing, after being summoned as herein provided, the judge in his discretion may either hear the plaintiff and order default judgment to be entered or continue the matter to a later date, notice of said subsequent trial date to be given by the clerk to defendant by mail.

6. **Failure of Plaintiff to Appear; Defendant Present.** Should plaintiff fail to appear at the trial, but defendant appears, the judge may hear the defendant and either order judgment of dismissal on the merits, order a dismissal without prejudice, or continue the trial to a later date; if the matter is continued to a later date, the clerk shall promptly notify the plaintiff thereof by mail.

7. **Continuances.** On proper showing of good cause, a continuance may be ordered on motion of either party. The court may require payment of costs, absolute or conditional, not to exceed \$25.00, as a condition of such an order.

#### 1.13 ABSOLUTE OR CONDITIONAL COSTS; FILING OF ORDERS

In any case in which payment of absolute or conditional costs has been ordered as a condition of an order under any provision of these rules, the amount so ordered shall be paid to the clerk before the order becomes effective or is filed. Conditional costs shall be held by the clerk to abide the final order to be entered in the case; absolute costs shall be paid over by the clerk forthwith to the other party as his absolute property.

#### 1.14 NOTICE OF ORDER FOR JUDGMENT

The clerk shall promptly mail to each party a notice of the order for judgment entered by the judge, which notice shall state the number of days allowed for obtaining an order to vacate (where there has been a default) or for removing the cause to county court, civil division.

#### 1.15 ENTRY OF JUDGMENT

The clerk shall enter judgment forthwith as ordered by the judge. The judgment shall be dated as of the date notice is sent to the parties unless:

1. payment has been made in full, or
2. removal to county court has been perfected, or
3. an order vacating the prior order for judgment has been filed.

The judgment so entered becomes finally effective ten days after the mailing of notice. Any judgment ordered may provide for satisfaction by payment in installments in amounts and at times as the judge determines. Should any installment not be paid when due, the entire unpaid balance of the judgment ordered, becomes immediately due and payable.

#### 1.16 COSTS AND DISBURSEMENTS

There shall be included in the order for judgment the filing fee paid by the prevailing party. Additionally the judge may include therein all or part of disbursements incurred by the prevailing party which would be taxable in county court. The order for judgment also may include or be adjusted by the amount of any conditional costs previously ordered to be paid by either party.

#### 1.17 PAYMENT OF JUDGMENT

The non-prevailing party may pay all or any part of the judgment to the clerk for benefit of the prevailing party or may pay the prevailing party directly. The clerk shall enter on his records any payment made to the clerk or the prevailing

party directly when satisfied that said direct payments have in fact been made.

#### 1.18 DOCKETING OF JUDGMENT IN COUNTY COURT

When a judgment has become finally effective as defined in Rule 1.15 the judgment creditor may obtain a transcript of the judgment from the clerk of conciliation court on payment of a fee as established by rule of the county court pursuant to M.S. 487.31 and file it with the clerk of county court without additional fee. Once filed therein the judgment becomes and is enforceable as a judgment of county court. No writ of execution or garnishment summons shall be issued out of conciliation court.

#### 1.19 JUDGMENT PAYABLE IN INSTALLMENTS

No transcript of a judgment of conciliation court payable in installments shall be issued and filed until 20 days after default in payment of an installment due.

#### 1.20 VACATION OF JUDGMENT ORDER

1. When a default judgment or judgment of dismissal on the merits has been ordered for failure to appear, the judge within ten days after notice was mailed may vacate said judgment order ex parte and grant a new hearing on a proper showing by the defaulting party of lack of notice, mistake, inadvertence or excusable neglect as the cause of his failure to appear. Absolute or conditional costs not to exceed \$25.00 to the other party may be ordered as a prerequisite to that relief.

2. A default judgment may be vacated by the judge more than ten days after finally effective upon a proper showing by the defendant that he did not receive a summons before the hearing within sufficient time to permit a defense and that he did not receive notice of the order for default judgment within sufficient time to permit him to apply for relief within ten days after notice. Said vacation, if ordered, shall grant a new trial on the merits and may be conditioned upon payment of absolute or conditional costs not to exceed \$25.00. The clerk shall promptly notify the other party, under either of subsections (1) or (2) of the new trial date.

#### 1.21 REMOVAL TO COUNTY COURT; APPEAL

1. Trial de novo. Any person aggrieved by an order for judgment entered by a conciliation judge after contested hearing may remove the cause to county court for trial de novo. An "aggrieved person" may be either the judgment debtor or creditor.

2. Removal Procedure. To effect removal, the aggrieved party must perform all the following within ten days after the date the clerk mailed to his notice of the judgment order:

- a. Serve on the opposing party, by personal service, a demand for removal of the cause to county court for trial de novo, stating whether trial demanded is to be by court or jury; the demand shall indicate name, address, and telephone number of the aggrieved party's attorney, if any.
- b. File with the clerk of conciliation court the original demand for removal with proof of service. If the opposing party cannot be found for personal service of the demand within the ten day period, the aggrieved party may file with the clerk within said ten day period the original and copy of the demand together with an affidavit by himself or his attorney showing that after due and diligent search the opposing party cannot be located. Thereupon the clerk shall mail the copy of the demand to the opposing party at his last known residence address.
- c. File with the clerk of conciliation court an affidavit by the aggrieved party or his attorney stating that the removal is made in good faith and not for purposes of delay.
- d. Pay to the clerk of conciliation court for a court trial demand, \$15; for a jury trial demand, \$25.

#### 3. Limited Removal.

- a. When a motion for vacation of an order for judgment, or judgment under Rule 1.20 subs. 1 or 2, is denied, the aggrieved may demand limited removal to the county court for hearing de novo his motion.

Procedure for service and filing of the demand for limited removal and notice of hearing de novo and proof of service thereof and procedure in case of inability of the aggrieved party to make personal service on the opposing party shall be in the same manner prescribed in Rule 1.21 subs. 2(a) and (b). The fee payable by the aggrieved party to the clerk of conciliation court for limited removal shall be \$15, which shall be paid by the clerk of conciliation court to the clerk of county court, together with filing of the removal demand, notice of hearing, and other papers filed in conciliation court in the cause. The clerk of county court shall then place the matter on the special term calendar for the date specified in the notice. At the hearing in county court, either party may be represented by an attorney at law.

- b. A county court judge or judicial officer other than the conciliation court judge who denied the motion, shall hear the motion de novo and may (1) deny the motion or (2) grant the motion. In determining the motion the judge shall consider the entire file plus any affidavits submitted by either party or their attorneys.
- c. The clerk of county court shall send by mail a copy of the order made in county court after de novo hearing to both parties and return the file to the clerk of conciliation court.

4. Demand for Jury Trial. Where no jury trial is demanded on removal by the aggrieved party, if the opposing party desires a jury trial he shall serve a demand therefor upon the aggrieved party or his attorney and file the demand with proof of service thereon with the clerk of conciliation court within ten days after the demand for removal was served on him. The jury fee payable by the opposing party to the clerk of conciliation court under this subsection shall be \$10 payable when the demand and proof of service thereof is filed.

5. Removal Perfected; Vacating of Judgment. When all removal papers have been filed properly and all requisite fees paid as herein provided the removal is perfected; the conciliation court judge shall prepare and file an order vacating the order for judgment in conciliation court together with a certificate setting out generally proceedings had, issues tried and the order entered in conciliation court.

6. Clerk's Duties upon Removal. Upon filing of the judge's order and certificate (subd. 5) the clerk of conciliation court shall pay to the clerk of the county court the removal and jury fees and shall file in county court the whole contents of the conciliation court file of the cause.

7. Note of Issue Not Necessary. No note of issue shall be necessary upon removal to county court. The matter shall be set for trial as if a note of issue had been filed on the date the claim was filed in conciliation court.

#### 1.22 ISSUES; AMENDMENTS IN COUNTY COURT

Issues for trial in county court shall be those in conciliation court as set out in the judge's certificate; however, amendments to the issues may be granted in county court on motion therein brought in the usual manner for such motions; granting or denial of such motions shall be in the discretion of the judge of county court. Provided, however, that if either party seeks to increase the amount of a claim or counterclaim, the party seeking the increase shall give notice to the opposing party by serving upon him a formal complaint, as provided by the Rules of Civil Procedure for the Municipal Courts.

#### 1.23 PROCEDURE IN COUNTY COURT

Trial in the county court shall, except as otherwise expressly provided in these rules, be as if originally commenced therein, and according to the rules of civil procedure governing trials therein. In county courts having more than one judge, the judge who presided in conciliation court shall not preside in the appeal.

#### 1.24 COSTS IN COUNTY COURT

Should the judgment creditor remove the cause to county court, and the final judgment be increased by \$10.00 or less, he shall recover no costs in county court. If the judgment debtor removes the cause to county court and the final judgment is

decreased by \$10.00 or less, he shall be entitled to no costs in county court. Should the removing party effect a change in the final judgment, in his favor, in excess of \$10.00 he shall be entitled to costs pursuant to M.S. § 487.23, subd. 5.

1.25 APPEAL

The judgment of the county court on removal from conciliation court in any cause may be appealed to the district court in the manner provided by law. (M.S. §487.39)

1.26 LOCAL RULES

Any court may adopt rules governing its practice not in conflict with these rules.