

STATE OF MINNESOTA  
IN SUPREME COURT

WHEREAS, this court has adopted rules for conciliation courts in county courts pursuant to the provisions of Chapter 487 of the Minnesota Statutes; and

WHEREAS, Rule 1.21 of said rules establishes fees to be paid to the clerk of conciliation court for complete removal and limited removal of conciliation court matters to the county court; and

WHEREAS, Section 487.31 of the Minnesota Statutes prescribes the fees payable for filing civil actions in the county court

NOW, THEREFORE, IT IS HEREBY ORDERED that Rule 1.21 of the Rules for Establishment of Conciliation Court; for Procedure Therein; and Removal of Causes Therefrom is hereby amended to read as follows:

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 of 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 as the fee for removal the amount prescribed by law for filing a civil action in county court.

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 the same as the filing fee prescribed by law for filing of a civil action in county court, 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.


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 fee 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.

Dated: 6-11-75

BY THE COURT

  
Chief Justice