

STATE OF MINNESOTA

IN SUPREME COURT

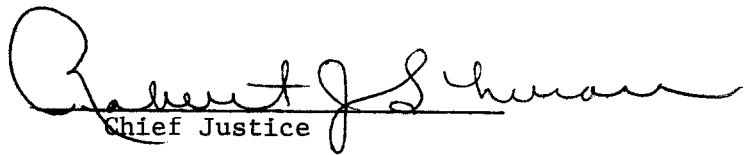
ORDER ESTABLISHING
PERSONAL RECEIVERSHIP
RULES FOR ST. LOUIS
COUNTY CONCILIATION COURT

Pursuant to the authority granted to the Supreme Court by Laws of
Minnesota, 1975, Chapter 142:

IT IS HEREBY ORDERED that the attached Rules for Personal Receiverships in
the St. Louis County Conciliation Court are adopted to be effective immediately.

Dated: 2-10-76

BY THE COURT


Chief Justice

SUPREME COURT
FILED

FEB 10 1976

JOHN McCARTHY
CLERK

CONCILIATION COURT
PERSONAL RECEIVERSHIP RULES

1. RECEIVER, APPOINTMENT; WHEN ALLOWED. The conciliation court shall have jurisdiction upon the petition of any debtor residing within the territorial jurisdiction of the court to appoint the clerk of the county court of the St. Louis County as personal receiver to receive the personal earnings and income of the debtor and distribute the same to the petitioner and to his creditors in such proportion as may be determined by the court in accordance with the provisions of these rules. Provided, however, that debtor, at the time of the filing of the petition, shall (1) be in the employ of another person, firm or corporation for wages or salary, or on a commission basis, or any combination of wages, salary or commissions, (2) have debts which he is unable to pay, (3) have no income other than that which arises from his current wages or salary, (4) own no property or assets, except such as are exempt from execution under the laws of this state or as allowed by the court, and (5) a reasonable probability exists that all indebtedness to his creditors can be liquidated within a period of 24 months.

2. CLERK, DUTIES; PETITION. The clerk shall confer with the debtor to determine whether the debtor meets all requirements of Rule 1 hereof and if so satisfied he shall assist the debtor in the preparation of his petition to the court. The petition shall be in such form as may be approved by the court and shall be accompanied by an assignment executed in duplicate by the petitioner and in form satisfactory to the court of all the wages, salary and commissions of the petitioner then earned and unpaid and thereafter to be earned to the clerk pending the hearing on the petition, and to his successor, if any, after the hearing. In case the petitioner shall leave his employment and accept new employment with a different employer, he shall immediately notify his personal receiver to that effect and shall execute a new assignment of his wages, salary or commissions, as the case may be, in favor of the personal receiver, and shall file the same with the clerk of the conciliation court. The clerk shall give written notice to the employer named in the assignment of any order of the court appointing a personal receiver. One copy of the assignment shall be filed with the clerk and the duplicate thereof shall be mailed by the clerk to the employer of the petitioner. The petition of the debtor shall be verified by the petitioner and shall disclose his assets, his personal earnings and income; the names, ages and relationship of those dependent upon him for support;

the names of those, if any, who are contributing to the support of his family and the amounts received monthly from each; and the names of all of his creditors and the amounts of their respective claims, and whether the claims are disputed or not, and such other information as the court shall require. The petition shall be filed with the clerk.

3. HEARING; CREDITORS' RIGHTS. Upon the filing of such petition, the court shall fix a date for a hearing thereon and shall cause notice of such hearing to be given by mail to all the creditors named in the petition not less than ten days prior to the date of the hearing. At the hearing the court shall fix the proportion of the personal earnings and income of the debtor which shall be set aside for the use and benefit of the creditors, hear and adjudicate the claims of the creditors and determine the amounts which the personal receiver shall pay to each of the creditors on a pro rata basis, and the court, the same time, shall fix the amount which the petitioner shall be entitled to have set apart for him out of the funds coming into the possession of the personal receiver pursuant to any such assignment of wages, salary or commissions. All creditors named in the petition for such personal receivership shall, during the pendency of the same, be estopped from bringing or maintaining any proceeding in garnishment, attachment, or in aid of execution in the county court of the St. Louis County, or in any other court, so long as the debtor shall not default in the payment to the personal receiver of such amounts as may have been ordered by the court. The conciliation court shall have the power at any time, for cause shown, to terminate any such personal receivership. Such proceedings may be dismissed on the petition of the debtor, the personal receiver, or upon the court's own motion, if it shall appear that the debtor is not entitled to the benefits of this rule, or that the proceeding is collusive, or not in good faith, or that the debtor has deceived, or has attempted to deceive the court about any fact material in the proceedings, or in case it shall appear that the financial involvement of the petitioner is, or may be such, that no reasonable probability exists that the mutual interests of the petitioner and his creditors will be benefited by the continuance of such proceedings. The provisions of this rule, however, shall not be construed to prevent any creditor from bringing or maintaining proceedings in garnishment, or recovering judgment against the debtor, nor to prohibit the levy under a writ of attachment or execution upon the property of the debtor, other than

that which may be in the possession of the personal receiver. The bringing or maintaining of any proceeding in garnishment, attachment or in aid of execution in violation of the provisions of this rule shall be construed as a contempt and the conciliation court is hereby vested with the same power and jurisdiction as the county court to punish therefor. The certificate of the clerk of the county court of the St. Louis County, under the seal of such court, stating that such proceedings are pending in the conciliation court and giving the date the petition was filed shall be sufficient warrant for any court to stay proceedings by way of garnishment, attachment, or in aid of execution pending before it at the date of the filing of the petition under these rules and to dismiss such proceedings thereafter brought.

4. RULE MAKING AUTHORITY. The judge of the county court may, by rule, provide for: notice to such creditors as are recited in the petition of the debtor, the authentication and adjudication of claims, the time and manner of payments by the debtor or by his employer under an assignment, the distribution of the fund and all other matters necessary or proper to carry into effect the jurisdiction conferred by these rules.

5. RECEIVER, BOND, DUTIES, SUPPLIES. The official bond of the clerk of court shall be conditioned upon the fulfillment of the trust as such personal receiver. The personal receiver shall make such reports as the court may require and shall be provided with the necessary books, blanks, stationery, postage and other expense for the execution of his duties in the same manner as other expenses incident to the court are provided for by law.

6. FILING FEE. Upon the filing of the petition and assignment executed by the petitioner, the petitioner shall pay to the clerk of the conciliation court as a filing fee therefor the sum of \$4 for each creditor named in the petition.

7. PAYMENT OF WAGES TO RECEIVER. Upon receipt of notification of the pendency of proceedings under these rules from the clerk of the conciliation court, the employer of any person filing a petition and making an assignment as herein provided shall pay to the personal receiver named by the court, as the same may become due and payable, all the wages, salary or commissions of such person covered by the assignment. Payment by an employer under any such assignment shall be deemed payment in all respects as if received by the employed person. Provided, however, that nothing therein contained shall be construed as requiring such employer to pay to the personal

receiver any money held by such employer under a garnishee summons, valid upon its face, unless and until the same shall be released, or the garnishment proceedings discharged by the court wherein the same are pending.

8. SECURED OR UNLISTED CREDITORS. Nothing herein contained shall be construed as to deprive a creditor holding security from pursuing his rights under the instrument giving him such security, but such creditor shall not have the right, unless he shall file with the clerk of the conciliation court his consent in writing to a suspension of the enforcement of his security during the pendency of such personal receivership, to participate in any fund under the provisions of these rules. Any person claiming to be a creditor of any person filing a petition under these rules who has not been listed as such in the petition shall have the right to intervene and prove his claim as though the same had been listed. A creditor having a lien at the time of the filing of any petition under these rules by virtue of proceedings in garnishment, attachment, or in aid of judgment against the salary, wages or commissions of any petitioner hereunder shall have the right to have his claim allowed in proceedings under these rules, but, as a prerequisite thereto, he must release his lien.

9. SUBSEQUENT RECEIVERSHIP, AVAILABILITY. A debtor in any such personal receivership proceedings may not again avail himself of the benefits of these rules until three years have elapsed from the date of the dismissal or discharge of such proceedings.

10. These rules shall apply in every respect to State of Minnesota employees.