

STATE OF MINNESOTA

IN SUPREME COURT

In re Proposed Amendments to)
Rules of Civil Procedure for)
the District and Municipal)
Courts)

ORDER FOR HEARING ON ADOPTION
OF PROPOSED AMENDMENTS TO THE
RULES FOR DISTRICT AND
MUNICIPAL COURTS

Pursuant to the unanimous recommendation of its Advisory Committee on Rules, appointed by the Supreme Court under Minn. St. 480.052, to assist the court in considering and preparing rules and amendments thereto governing the regulation of pleading, practice, procedure, and the forms thereof, in all the courts of this state, the Supreme Court is considering the adoption of amended Rule 49.01, Minnesota Rules of Civil Procedure, the readoption of Rule 51, Minnesota Rules of Civil Procedure, and an amendment to Appendix B of Minnesota Rules of Civil Procedure, to reflect the effect of these amendments on M. S. A. 546.14 (Laws 1971, Ch. 715). The recommendations are:

1. RULE 49.01 TO BE AMENDED TO READ AS FOLLOWS:

The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and require written findings thereon as it deems most appropriate. The court shall give to the jury such explanations and instructions concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his right to a trial by jury of the issue so omitted unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand, the court may make a finding; or, if

it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict. Neither the court or counsel shall inform the jury of the effect of its answers on the outcome of the case. (New matter underlined)

2. RULE 51 TO BE READOPTED TO READ AS FOLLOWS:

At the close of the evidence or at such earlier time during the trial as the court reasonably directs, any party may file written requests that the court instruct the jury on the law as set forth in the requests. The court shall inform the counsel of its proposed action upon the requests prior to their arguments to the jury, and such action shall be made a part of the record. The court shall instruct the jury after the arguments are completed except, at the discretion of the court, preliminary instructions need not be repeated. No party may assign as error unintentional misstatements and verbal errors, or omissions in the charge, unless he objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which he objects and the grounds of his objections. An error in the instructions with respect to fundamental law or controlling principle may be assigned in a motion for a new trial though it was not otherwise called to the attention of the court.

3. APPENDIX B TO BE AMENDED BY THE FOLLOWING ADDITIONS:

Appendix B(1)

Rule	Statute Superseded M.S.A. 1971
49.01	546.14 (Laws 1971, Ch. 715)
51	546.14 (Laws 1971, Ch. 715)

Appendix B(2)

Statute Superseded M.S.A. 1971	Rule
546.14 (Laws 1971, Ch. 715)	49.01; 51

The official comments of the Advisory Committee are as follows:

Your Advisory Committee finds such an urgency to exist to resolve the confusion and to clarify the inconsistency in practice

in the district courts regarding the proper procedures to be followed in submitting special verdicts to the jury following the enactment of Laws 1971, Chapter 715, as to require immediate attention by the Court. Your Advisory Committee believes that it is essential to restore commonality of practice in our districts and therefore recommends to the Court the immediate promulgation of the foregoing amendments. Your Advisory Committee is considering and will propose to the Court additional amendments to the Rules, but recommends that the Court not delay adoption of these amendments until the Committee has had an opportunity to complete its other work. The effect of the proposed amendments will be to preserve the practice as set forth by the Minnesota Supreme Court in McCourtie v. United States Steel Corp., 253 Minn. 501, 93 N. W. 2d 552 (1958) and Johnson v. O'Brien, 258 Minn. 502, 105 N. W. 2d 244 (1960).

Your Advisory Committee believes that it is beyond its province to comment on the effect, if any, of Laws 1971, Chapter 715, on prior judicial proceedings; however, at such date as the Court promulgates the foregoing amendments, Minnesota Laws 1971, Chapter 715, can and should have no further effect.

IT IS HEREBY ORDERED That a hearing be had before this court in the State Capitol at St. Paul, Minnesota, on Monday, September 18, 1972, at 2 o'clock p. m., at which time the court will hear proponents or opponents of the proposed amendments.

IT IS FURTHER ORDERED That members of the bench and bar desiring to be heard shall file briefs or petitions setting forth their position and shall also notify the Clerk of the Supreme Court, in writing, on or before September 8, 1972, of their desire to be heard on the proposed amendments.

PROVIDED That if the court adopts said amendments to the rules, the same shall become effective on the date of their adoption.

BY THE COURT



Chief Justice

Dated July 18, 1972