

**STATE OF MINNESOTA
IN SUPREME COURT**

CX-89-1863

OFFICE OF
APPELLATE COURTS

DEC 5 1995

FILED

In re:

**Supreme Court Advisory Committee
on General Rules of Practice**

**Recommendations of Minnesota Supreme Court
Advisory Committee on General Rules of Practice**

Final Report

December 1, 1995

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ADVISORY COMMITTEE ON GENERAL RULES OF PRACTICE

Summary of Committee Recommendations

This Court's Advisory Committee on General Rules of Practice met twice, in September and November 1995, to consider public comments and recommended changes to the rules. In addition to unsolicited comments that have been directed to the Committee since the rules were last amended, the Committee advertised its pending review of the rules and solicited comments.

The recommendations made in this report are modest in scope and can fairly be characterized as "housekeeping" changes. It is not anticipated that any of them would be controversial. For convenience, the proposals and their location in the report are identified in the executive summary below.

Executive Summary

PROPOSAL 1:	Revise General Rule of Practice 7 to establish a specific deadline for filing proof of service.	Page 4
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PROPOSAL 8:	Clarify rules regarding bond revocation.	Page 34

These recommended amendments to the Minnesota General Rules of Practice are not extensive, do not make substantial changes in practice in the district courts, and should not prove controversial. They have been proposed or recommended to the advisory committee without significant dissent within the bench and bar, and have been unanimously adopted by the advisory committee.

For the convenience of the Court, this report includes line numbers for all proposed text changes. The recommendations follow the form for legislative amendments, with new matter shown by underlining and deletions shown by ~~striking through~~.

Public Hearing and Effective Date

For the foregoing reasons, the committee believes these proposed amendments may be considered by the Court with or without further hearing, as the Court deems appropriate. The committee does recommend that, if practical, the amendments made become effective on January 1, 1996.

Ongoing Work of the Advisory Committee

The advisory committee considered a number of questions relating to the administration of alternative dispute resolution under Rule 114. With the exception of the limited amendment recommended in Proposal 3, the advisory committee is deferring further recommendations to this Court until additional recommendations and information have been received from other groups. The ADR Review Committee established by this Court's order adopting Rule 114 is presently reviewing the operation of the rule. Additionally, the advisory committee has been in contact with a large ad hoc committee, chaired by attorney Daniel B. Ventres, Jr. of Minnetonka, that is considering the use of ADR in family court proceedings. This advisory committee believes it should await the conclusions of the ADR Review Committee and ad hoc committee before making recommendations on the subject of ADR to the Court. This committee does believe it is important that, to the extent feasible, any rule establishing court-annexed ADR in family court matters should follow the structure and form of Rule 114 and should be administered in a similar manner. We expect to make recommendations well before

July 1, 1996, and would hope to have a report to the Court to permit consideration, hearing, and possible adoption to be effective on that date.

Dated: December 1, 1995

Respectfully submitted,

MINNESOTA SUPREME COURT ADVISORY
COMMITTEE ON GENERAL RULES OF
PRACTICE

PROPOSAL 1: Revise General Rule of Practice 7 to establish a specific deadline for filing proof of service.

Introduction

Minn. Gen. R. Prac. 7 requires that proof of service accompany documents filed with the court, and permits filing of any document with proof of service to be filed at a later date. The rule requires this to occur “promptly after service is made.” The advisory committee was made aware of a problem of documents being filed with no proof of service being filed for substantial periods of time. This problem manifests itself most seriously when hearings have to be stricken because documents relating to the hearing have not been served, and this situation arises most frequently for motions brought by *pro se* parties.

The proposed amendment requires filing of proof of service within ten days of service. This will permit a trial court to identify, in cases where it chooses to do so, any potential service problems that might require a motion to be stricken.

Specific Recommendation.

Recommendation 1. Amend Minn. Gen. R. Prac. 7 as follows:

Rule 7 PROOF OF SERVICE

When service has been made before filing, proofs of service shall be affixed to all papers so that the identity of the instrument is not obscured. If a document is filed before service, proof of service shall be filed ~~promptly~~ within 10 days after service is made.

ADVISORY COMMITTEE COMMENTS - ~~1991 Adoption~~ 1995 AMENDMENTS

This rule derived from Rule 13 of the Code of Rules for the District Court.

The second sentence is new, drafted to provide for filing of documents where service is to be made after filing.

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The Committee recommends amendment of the rule to require a specific rather than subjective standard for the filing of proof of service. Although the Committee heard requests to change the rule to require that all documents be filed with proof of service attached, the Committee believes that such a rule is neither helpful nor necessary. Such a rule would make it difficult to serve and file documents at the same time, and would probably result in greater problems relating to untimely service and filing. Nonetheless, there appear to be a number of situations where proof of service is not filed for a substantial period of time, resulting in confusion in the courts. The rule is accordingly amended to change the requirement from filing “promptly” after service to “within ten days” after service. The Committee believes this period is more than sufficient for filing a proof of service. The Committee is also sensitive to a potential problem that would arise with a requirement that proof of service accompany documents at the time of filing. The Committee continues to believe that documents, in whatever form, should not be rejected for filing by the court administrators. Rather, documents should be filed as submitted and the court should deal with any deficiencies or irregularities in the documents in an orderly way, having in mind the mandate of Rule 1 of the Minnesota Rules of Civil Procedure that the rules be interpreted to advance the “just, speedy, and inexpensive” determination of every action.

PROPOSAL 2: The requirement of a filing of a certificate of representation and parties should be eased in cases that are commenced by filing.

Introduction

The Committee is advised of circumstances where court administrators have rejected for filing for lack of a certificate of representation and parties notwithstanding the fact that the action can only be commenced by filing, *e.g.*, mechanic's lien actions. See Minn. Stat. § 514.11 (1994). Although this rule has not been uniformly applied, it has created unfortunate results in certain circumstances. Some court administrators have apparently rejected such actions for filing without a certificate of representation, despite the potentially dire results of that conduct. In addition to requiring the plaintiff to provide information prematurely in an action that must be filed in order for it to proceed, it also may result in defendant's receiving notice of the action before they can be served. This may be a contributing factor to difficulties in service and added expense.

Specific Recommendation.

Recommendation 1: Rule 104 should be amended as follows:

1 **RULE 104 Certificate of Representation and Parties**

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Except as otherwise provided in these rules for specific types of cases and in cases where the action is commenced by filing by operation of statute, a party filing a civil case shall, at the time of filing, notify the court administrator in writing of the name, address, and telephone number of all counsel and unrepresented parties, if known (see ~~f~~Form 104 appended to these rules). If that information is not then known to the filing party, it shall be provided to the court administrator in writing by the filing party within seven days of learning it. Any party impleading additional parties shall provide the same information to the court administrator. The court administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers if represented by counsel, of the date of filing the action and the file number assigned.

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15 **ADVISORY COMMITTEE COMMENTS - 1992~~5~~ AMENDMENTS**
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19 The first clause of the rule is intended to make it clear that where other
20 rules provide specific requirements relating to initiation of an action for scheduling
21 purposes, those rules govern. For example, Minn. Gen. R. Prac. 144.01, as
22 amended in 1992, states that the Certificate of Representation required under this
23 rule is not required in wrongful death actions following the mere filing of a petition
24 for appointment of the trustee, but is required after the action itself is commenced
25 by service of the summons and papers are filed with the court. Rule 141.02, as
26 amended in 1992, similarly provides that filing of a notice of appeal from a
27 commissioner's award triggers the assignment process requirements in condemnation
28 proceedings. In addition to cases exempted by rule, this rule was amended in 1995
29 to exempt its application to actions that are commenced by filing. In those cases,
30 it is unfair and inappropriate to place additional burdens on the filing process that
31 are not required by statute, and which might result in the rejection of a document for
32 filing. The consequences of rejecting such a document can be dire. Minn. Stat.
33 §514.11. Cf. AAA Electric & Neon Service, Inc. v. R. Design Co., 364 N.W.2d 869
34 (Minn. App. 1985) (bar by not meeting filing requirement of action in a timely
35 manner). The Advisory Committee believes it is not appropriate to reject such
36 documents for filing in any event, but this rule now makes it clear that a certificate
37 of representation and parties is not required in actions commenced by filing. For
38 the convenience of the parties, frequently encountered examples of actions that are
39 commenced by filing include mechanic's lien actions, quiet title actions, and actions
40 to register title to real property (Torrens actions). This amendment is intended to
41 remove the requirement that a certificate of representation and parties accompany
42 the complaint for filing. It is not intended to prevent courts from obtaining this
43 information, if still needed, after process has been served and the parties'
44 representation known.

PROPOSAL 3: Housekeeping changes should be made to the Court-annexed ADR rules.

Introduction

This Court’s ADR Review Board has recommended three amendments to Rule 114. These amendments relate to minor changes intended to conform the rule to their form as initially contemplated. Two of the changes are simply to reflect explicitly in the rule the legislature’s enactment of a law purporting to limit courts’ authority to order ADR proceedings in the absence of unanimous consent of the parties. See Minn. Stat. § 604.11 (1994).

Specific Recommendations.

Recommendation 1. Amend Rule 114.04 as follows:

1 **Rule 114.04 Selection of ADR Process**

2
3 * * *

4
5 (b) If the parties cannot agree on the appropriate ADR process, the
6 timing of the process, or the selection of neutral, or if the court does not approve
7 the parties’ agreement, the court shall schedule a telephone or in-court conference
8 of the attorneys and any unrepresented parties within thirty days after the due date
9 for filing informational statements pursuant to Rule 111.02 to discuss ADR and
10 other scheduling and case management issues. Except as otherwise provided in
11 Minn. Stat. § 604.11, If no agreement on the ADR process is reached or if the
12 judge court disagrees with the process selected, the judge court may order the
13 parties to utilize one of the non-binding processes, or may find that ADR is not
14 appropriate; provided that any ADR process shall not be approved where it
15 amounts to a sanction on a non-moving party.

16
17 * * *

18
19 (d) Except as otherwise provided in Minn. Stat. § 604.11, ~~U~~pon motion
20 by any party, or on its own initiative, the court may, at any time, issue an order
21 for any ADR process.

22 ADVISORY COMMITTEE COMMENTS--1995 AMENDMENTS
23

24 Rule 114.04 is amended to make explicit what was implicit before. The
25 rule mandates a telephone or in-court conference if the parties cannot agree on an
26 ADR process. The primary purpose of that conference is to resolve the
27 disagreement on ADR, and the rule now expressly says that. The court can, and
28 usually will, discuss other scheduling and case management issues at the same time.
29 The court's action following the conference required by this rule may be embodied
30 in a scheduling order entered pursuant to Rule 111.03 of these rules.

Recommendation 2. Amend Form 111.02 as set forth below:

1 **FORM 111.02 INFORMATIONAL STATEMENT (Civil Matters--Non-Family)**

2
3 **State of Minnesota**

District Court

4
5 COUNTY

JUDICIAL DISTRICT
CASE NO.

8
9 Case Type: _____

10
11 _____
12 Plaintiff

13 and

**INFORMATIONAL STATEMENT
FORM**

14
15
16
17 _____
18 Defendant

19
20 * * *

21
22 9. a. MEETING: Counsel for the parties met on _____ to discuss
23 case management issues. (Date)

24
25 * * *

26
27 d. DEADLINE: The parties recommend that the ADR process be completed by
28 _____.
29 (Date)

30 * * *

31
10. Please list any additional information which might be helpful to the court when scheduling
this ~~letter~~ matter.

PROPOSAL 4: Amend the rule on telephone hearings to prohibit unauthorized verbatim recordings.

Introduction

Although it is not a widespread problem, the Advisory Committee is aware of instances where parties have either recorded or attempted to record telephone conferences. This practice is inconsistent with the provisions of Gen. R. Prac. 4 governing pictures and voice recordings, but it appears appropriate to include an explicit prohibition on recording telephone hearings since it could be done without the knowledge of the court and under certain circumstances where a party might otherwise be unaware that a recording was not authorized under the rules.

Specific Recommendation.

Recommendation 1. Amend Rule 115.09 as follows:

1 **RULE 115.09 Telephone Hearings.**

2 When a motion is authorized by the court to be heard by telephone
3 conference call, the moving party shall be responsible either to initiate the
4 conference call or to comply with the court's instructions on initiation of the
5 conference call. If necessary, adequate provision shall be made by the court for
6 a record of the telephone hearing. No recording shall be made of any telephone
7 hearing except the recording made as the official court record.

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ADVISORY COMMITTEE COMMENTS - 1992~~5~~ AMENDMENTS

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[Insert the following as a new paragraph at the end of the existing Advisory
Committee Comment]

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Rule 115.09 has been amended to make it clear that telephone hearings may
not be recorded unofficially by one party. This rule is consistent with the broader
mandate of Gen. R. Prac. 4 which prohibits pictures or voice recordings except if
taken as the official record for matters that are heard in court rather than by phone.

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PROPOSAL 5: Clarify the rule relating to use of structured settlements in minor settlements.

Introduction

The Committee is aware of ongoing questions relating to the requirement in Rule 145.06(c) that the original annuity policy be deposited in cases where a minor settlement is funded with some form of structured settlement involving an annuity. Since the retention of the original policy is of significant importance to protect the interests of the minor, the Committee believes the rule is important and needs to be emphasized. To the extent the concern about the rule flows from questions about whether or not retention somehow creates an incident of ownership on the part of the court administrator, the rule is amended to make it clear that retention of the policy does not affect any question of ownership. The committee is aware of requests for a structured settlement arrangement where the original is not maintained by the court administrator. The Committee believes the interests of the minor significantly outweigh any factors of convenience that would favor a looser rule and therefore recommends that such a change not be made.

Specific Recommendation.

Recommendation 1. Amend Minn. Gen. R. Prac. 145.06(c) as follows:

1 **RULE 145.06 Structured Settlements**

2

3 (c) Order that the original annuity policy be deposited with the court
4 administrator, without affecting ownership, and the policy be returned to the owner
5 of the policy when:

6 (1) The minor reaches majority;

7 (2) The terms of the policy have been fully performed; or

8 (3) The minor dies, whichever occurs first.

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ADVISORY COMMITTEE COMMENTS - 1992~~5~~ AMENDMENTS

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Rule 145.06 is new. It establishes criteria for approval of structured settlements, and it requires the court to determine the cost of the annuity to insure that the periodic payments reflect a cost comparable to a reasonable settlement amount. Where a minor or incompetent receives a verdict representing future damages greater than \$100,000.00 and the guardian determines that a structured settlement pursuant to Minn. Stat. § 549.25 (1990) would be in the best interests of the minor or incompetent person, this rule shall apply to the implementation of the election pursuant to the statute. The amendment of the rule in 1995 (effective January 1, 1996) is intended to make it clear that it is important that the original annuity policy be retained by the court administrator, and that this is for the purpose of security, not establishing any ownership interest which might affect the tax treatment of the settlement.

PROPOSAL 6: Establish a specific deadline for filing informational statements in family law matters.

Introduction

The Advisory Committee has been advised of instances where the existing provision for requiring informational statement contained in Rule 304.02 does not work well in some situations encountered in practice. Specifically, the Rule requires an informational statement either sixty (60) days after the filing of the action or sixty (60) days after the date for which a temporary hearing is initially scheduled, whichever is later. This timing mechanism is deficient in that it does not set a final date by which an informational statement is due, and in some cases one appears never to be required. The revised rule eliminates this unintended interpretation of the rule. A typographical error is also corrected for the sake of consistency.

Specific Recommendation.

Recommendation 1. Amend Minn. Gen. R. Prac. 304.02(a) as follows:

1 **Rule 304.02 The Party’s Informational Statement**

2

3 **(a) Timing.** Within 60 days after filing an action or, if a temporary
4 hearing is scheduled within 60 days of the filing of the action, then within 60 days
5 after a temporary hearing is initially scheduled to occur, whichever is later, each
6 party shall submit, on a form to be available from the court (see ~~f~~Forms 9A & B
7 appended to these rules), the information needed by the court to manage and
8 schedule the case.

PROPOSAL 7: Revise rules relating to trust accountings to require a more useful form and bring language up to date.

Introduction

The Advisory Committee received a recommendation to consider and revise Minn. R. Gen. Prac. 417.02 to correct a misphrasing, change the provision for actual notice, and modernize Form 417.02.

Rule 417.02 uses “jurisdiction” as a term to define the scope of the rule. A better phrase is “continuing court supervision” inasmuch as all trust are subject to the court’s jurisdiction, but the rule is properly applicable to those under continuing court supervision under Minn. Stat. § 501B.23. This amendment should be made to remove any potential for confusion.

The Committee believes it is appropriate to modernize Form 417.02 for two reasons. First and most important, the current form is dated in appearance and not well-suited to modern word-processing equipment. Second, the form is used in practice only by individual trustees and occasional or one-time participants in the trust supervision process. Corporate trustees submit information in substantially the form required by the rule by submitting their standard computer printout reports. It is sensible for the form to be changed to make it easier to use by trustees and still provide the information needed by the court.

Specific Recommendation.

Recommendation 1. Amend Minn. Gen. R. Prac. 417.02:

1 **Rule 417 TRUSTEES--ACCOUNTING--PETITION FOR**
2 **APPOINTMENT**
3
4 * * *
5
6 **Rule 417.02 Annual Account**
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8 Every trustee subject to the ~~jurisdiction~~ continuing supervision of the district
9 court shall file an annual account, duly verified, of the trusteeship with the court
10 administration within 60 days after the end of each accounting year. . . .

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12 **ADVISORY COMMITTEE COMMENTS---1995 AMENDMENTS**

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14 Rule 417.02, as amended, refers to trustees subject to the continuing
15 supervision of the district courts. The rule is intended to apply to all trusts subject to
16 the continuing supervision of the district courts pursuant to Minn. Stat. § 501B.23
17 (1994), and the earlier reference to jurisdiction is deleted to avoid confusion, since
18 all Minnesota trusts are subject to the district court's jurisdiction.
19

Recommendation 2. Form 417.02 should be amended as follows:

FORM 417.02 TRUSTEE'S ACCOUNTING

State of Minnesota

District Court

COUNTY

JUDICIAL DISTRICT CASE NO.

Case Type: _____

**In the Matter of the Trust Created under Article
_____ of the Last Will of _____.**

**ALTERNATIVE FOR INTER VIVOS TRUSTS:
In the Matter of the Trust Created under
Agreement By and Between _____,
Settlor, and _____ and _____,
Trustees, dated _____.**

TRUSTEE'S ANNUAL ACCOUNT

	<u>Principal</u>	<u>Income</u>
Assets on Hand as of _____ (Schedule 1)	\$	\$
Increases to Assets:		
Interest (Schedule 2)	\$ 0.00	\$
Dividends (Schedule 3)	\$ 0.00	\$
Capital gains distributions (Schedule 4)	\$	\$ 0.00
Gains on sales and other dispositions (Schedule 5)	\$	\$ 0.00
Return of capital (Schedule 6)	\$	\$ 0.00
Other increases (Schedule 7)	\$	\$
Decreases to Assets:		
Losses on sales and other dispositions (Schedule 8)	(\$)	(\$.00)
Administration expenses (Schedule 9)	(\$)	(\$)
Taxes (Schedule 10)	(\$)	(\$)
Trustee fees	(\$)	(\$)
Attorney fees	(\$)	(\$)
Other decreases (Schedule 11)	(\$)	(\$)
Balance Before Distributions	\$	\$
Distributions to Beneficiaries (Schedule 12)	(\$)	(\$)
Principal and Income Balances	<u>\$ 0.00</u>	<u>\$ 0.00</u>

43 Total Assets on Hand as of _____ \$ _____
44 (Income plus principal) (Schedule 13)

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46 Assets which realized a net income of less than 1% of their inventory values or acquisition costs are
47 listed on Schedule 14
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[NAME OF TRUST]

ASSETS ON HAND
[Beginning DATE]
Schedule 1

	<u>Market Value</u> <u>as of [DATE]</u>	<u>Values at Cost</u> <u>or Basis</u> <u>Principal</u>	<u>Values at Cost</u> <u>or Basis</u> <u>Income</u>
Cash or Cash Equivalents			
Checking account	\$	\$	\$
Savings account	\$	\$	\$
Money Market account	\$	\$	\$
Stocks and Bonds			
Stocks	\$	\$	\$ 0.00
Corporate bonds	\$	\$	\$ 0.00
Municipal bonds	\$	\$	\$ 0.00
Real Estate	\$	\$	\$ 0.00
Other Assets			\$
Life insurance policies (cash value)	\$	\$	\$
Other assets	\$	\$	\$
Total Assets on Hand as of [Date]	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

_____.

Note: This schedule reflects assets on hand at the **beginning** of the period. Identify each asset thoroughly. Provide the name of the bank and account number for each account holding cash or cash equivalents. Provide the number of shares or par value of each security. Provide the address of each parcel of real estate

[NAME OF TRUST]

INTEREST
Schedule 2

		<u>Income</u>
85	Checking account(s)	
86	1.	\$
87	2.	\$
88		
89	Savings Account(s)	
90	1.	\$
91	2.	\$
92		
93	Corporate bonds	
94	1.	\$
95	2.	\$
96	3.	\$
97		
98	Municipal bonds	
99	1.	\$
100	2.	\$
101	3.	\$
102		
103	Other interest	
104	1.	\$
105	2.	\$
106	3.	\$
107		
108	Total Interest	\$ <u>0.00</u>

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110 Identify each interest-producing asset. List each bank account by name and account number. Identify
111 each bond or other asset that pays interest.
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[NAME OF TRUST]

DIVIDENDS
Schedule 3

Income

Stocks

1	\$
2	\$
3	\$
4	\$
5	\$
6	\$
7	\$
8	\$
9	\$
10	\$
11	\$
12	\$
13	\$
14	\$
15	\$

Total Dividends 0.00

Identify each security that paid dividends.

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[NAME OF TRUST]

CAPITAL GAINS DISTRIBUTIONS
Schedule 4

Principal

Capital gains distributions

1	\$
2	\$
3	\$
4	\$
5	\$
6	\$
7	\$
8	\$
9	\$
10	\$
11	\$
12	\$
13	\$
14	\$

Total Capital Gains Distributions 0.00

Identify each security that paid a capital gains distribution.

[NAME OF TRUST]

GAINS ON SALES AND OTHER DISPOSITIONS
Schedule 5

		<u>Principal</u>
171		
172		
173		
174		
175		
176		
177	Sale of _____ shares of _____:	
178	Proceeds received	\$
179	Less cost or basis	(\$ _____) \$ 0.00
180		
181	Sale of _____ shares of _____:	
182	Proceeds received	\$
183	Less cost or basis	(\$ _____) \$ 0.00
184		
185	Sale of _____ shares of _____:	
186	Proceeds received	\$
187	Less cost or basis	(\$ _____) \$ 0.00
188		
189	Sale of _____ shares of _____:	
190	Proceeds received	\$
191	Less cost or basis	(\$ _____) \$ 0.00
192		
193	Sale of _____ shares of _____:	
194	Proceeds received	\$
195	Less cost or basis	(\$ _____) \$ 0.00
196		
197	Sale of _____ shares of _____:	
198	Proceeds received	\$
199	Less cost or basis	(\$ _____) \$ 0.00
200		
201	Sale of _____ shares of _____:	
202	Proceeds received	\$
203	Less cost or basis	(\$ _____) \$ 0.00
204		
205	Sale of _____ shares of _____:	
206	Proceeds received	\$
207	Less cost or basis	(\$ _____) \$ 0.00
208		
209	Sale of _____ shares of _____:	
210	Proceeds received	\$
211	Less cost or basis	(\$ _____) \$ 0.00
212		
213		
214	Total Gains	\$ <u>0.00</u>
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[NAME OF TRUST]

RETURN OF CAPITAL
Schedule 6

Principal

Return of capital:

- | | |
|-----|----|
| 1. | \$ |
| 2. | \$ |
| 3. | \$ |
| 4. | \$ |
| 5. | \$ |
| 6. | \$ |
| 7. | \$ |
| 8. | \$ |
| 9. | \$ |
| 10. | \$ |
| 11. | \$ |
| 12. | \$ |
| 13. | \$ |
| 14. | \$ |

Total Return of Capital

0.00

Identify each security that paid a return of capital.

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[NAME OF TRUST]
OTHER INCREASES
Schedule 7

	<u>Principal</u>	<u>Income</u>
Securities added to trust by Settlor		\$ 0.00
1	\$	\$
2	\$	\$
3	\$	\$
4	\$	\$
5	\$	\$
6	\$	\$
7	\$	\$
8	\$	\$
9	\$	\$
Income transferred to principal	\$	\$ 0.00
Other increases:		
1	\$	\$
2	\$	\$
3	\$	\$
4	\$	\$
5	\$	\$
6	\$	\$
7	\$	\$
8	\$	\$
9	\$	\$
Total Other Increases	<u>0.00</u>	<u>0.00</u>

[NAME OF TRUST]

LOSSES ON SALES AND OTHER DISPOSITIONS

Schedule 8

		<u>Principal</u>
288		
289	Sale of _____ shares of _____:	
290	Proceeds received	\$
291	Less cost or basis	<u>(\$ _____)</u> \$ 0.00
292		
293	Sale of _____ shares of _____:	
294	Proceeds received	\$
295	Less cost or basis	<u>(\$ _____)</u> \$ 0.00
296		
297	Sale of _____ shares of _____:	
298	Proceeds received	\$
299	Less cost or basis	<u>(\$ _____)</u> \$ 0.00
300		
301	Sale of _____ shares of _____:	
302	Proceeds received	\$
303	Less cost or basis	<u>(\$ _____)</u> \$ 0.00
304		
305	Sale of _____ shares of _____:	
306	Proceeds received	\$
307	Less cost or basis	<u>(\$ _____)</u> \$ 0.00
308		
309	Sale of _____ shares of _____:	
310	Proceeds received	\$
311	Less cost or basis	<u>(\$ _____)</u> \$ 0.00
312		
313	Sale of _____ shares of _____:	
314	Proceeds received	\$
315	Less cost or basis	<u>(\$ _____)</u> \$ 0.00
316		
317	Sale of _____ shares of _____:	
318	Proceeds received	\$
319	Less cost or basis	<u>(\$ _____)</u> \$ 0.00
320		
321	Sale of _____ shares of _____:	
322	Proceeds received	\$
323	Less cost or basis	<u>(\$ _____)</u> \$ 0.00
324		
325		
326	Total Losses	<u>\$ 0.00</u>

[NAME OF TRUST]

ADMINISTRATIVE EXPENSES
Schedule 9

	<u>Principal</u>	<u>Income</u>
330		
331		
332		
333		
334		
335 Bank account fees	\$	\$
336		
337 Check charges	\$	\$
338		
339 Broker annual fees	\$	\$
340		
341 Photocopies	\$	\$
342		
343 Postage	\$	\$
344		
345 Maintenance of real estate (schedule attached)	\$	\$
346		
347 Other (schedule attached)	\$	\$
348		
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350		
351		
352		
353		
354		
355		
356 Total Administrative Expenses	<u>\$ 0.00</u>	<u>\$ 0.00</u>
357		
358		
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[NAME OF TRUST]

TAXES
Schedule 10

	<u>Principal</u>	<u>Income</u>
367 Foreign dividend tax	\$ 0.00	\$
369 U.S. fiduciary income tax	\$	\$
371 Minnesota fiduciary income tax	\$	\$
388 Total taxes	<u>\$ 0.00</u>	<u>\$ 0.00</u>

Note: The portion of fiduciary income tax allocated to capital gains is charged against principal. The portion of foreign dividend tax is allocated to income.

395		[NAME OF TRUST]		
396				
397		OTHER DECREASES		
398		Schedule 11		
399			<u>Principal</u>	<u>Income</u>
400				
401	Income transferred to principal		\$	\$ 0.00
402				
403				
404	Other decreases:			
405				
406	1.		\$	\$
407	2.		\$	\$
408	3.		\$	\$
409	4.		\$	\$
410	5.		\$	\$
411	6.		\$	\$
412	7.		\$	\$
413	8.		\$	\$
414	9.		\$	\$
415				
416				
417	Total Other Decreases		<u>0.00</u>	<u>0.00</u>
418				
419				
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[NAME OF TRUST]

DISTRIBUTIONS TO BENEFICIARIES
Schedule 12

	<u>Principal</u>	<u>Income</u>
Name of each beneficiary and date description of distribution:		
1.	\$	\$
2.	\$	\$
3.	\$	\$
4.	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$
8.	\$	\$
9.	\$	\$
10.	\$	\$
11.	\$	\$
12.	\$	\$
13.	\$	\$
14.	\$	\$
15.	\$	\$
Total Distributions to Beneficiaries	<u>0.00</u>	<u>0.00</u>

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[NAME OF TRUST]

ASSETS ON HAND
[ending DATE]
Schedule 13

Values at Cost Values at Cost
or Basis or Basis
Principal Income

Market Value
as of [DATE]

Cash or Cash Equivalents

Checking account
Savings account
Money Market account

\$
\$
\$

\$
\$
\$

\$
\$
\$

Stocks and Bonds

Stocks
Corporate bonds
Municipal bonds

\$
\$
\$

\$
\$
\$

\$ 0.00
\$ 0.00
\$ 0.00

Real Estate

\$

\$

\$ 0.00

Other Assets

Life insurance policies (cash
value)

Other assets

\$

\$

\$

\$

\$

\$

Total Assets on Hand as of [Date]

0.00

0.00

0.00

_____.

Note: This schedule reflects assets on hand at the **end** of the accounting period. Identify each asset thoroughly. Provide the name of the bank and account number for each account holding cash or cash equivalents. Provide the number of shares or par value of each security. Provide the address of each parcel of real estate.

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[NAME OF TRUST]

ASSETS WHICH REALIZED A NET INCOME OF
LESS THAN 1% OF THEIR INVENTORY
VALUES OR ACQUISITION COSTS
Schedule 14

Description of Asset	<u>Amount of Net Income Realized</u>	<u>Income as Percentage of Cost/Basis</u>
1.	\$	%
Reason why this asset should be retained:		
2.	\$	%
Reason why this asset should be retained:		
3.	\$	%
Reason why this asset should be retained:		
4.	\$	%
Reason why this asset should be retained:		
5.	\$	%
Reason why this asset should be retained:		

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Under penalties of perjury, we have read this Annual Account and we know or believe its contents are true and correct.

Trustee Date
Address:

Trustee Date
Address:

Notarial Stamp or Seal (or Other Title or Rank)

Signed and sworn to (or affirmed) before me on (date)_____ by _____ and _____, Trustees.

Signature of Notary Public or Other Official

542

PROPOSAL 8: Clarify rules regarding bond revocation.

Introduction

The Conference of Chief Judges recommended an amendment to provide explicitly for the revocation of bonding privileges and the operation of that suspension statewide. The Advisory Committee believes this change is appropriate and consistent with the practice even without the rule. The Committee additionally believes it is appropriate to include commentary reminding chief judges considering revocation of bonding privileges of potential due process rights that may apply to the revocation process.

Specific Recommendations.

Recommendation 1. Amend Minn. Gen. R. Prac. 702 as follows:

1 **RULE 702 Bail**

2 **(a) Approval of Bond Procurers Required.** No person shall engage
3 in the business of procuring bail bonds, either cash or surety, for persons under detention
4 until an application is approved by a majority of the judges of the judicial district. The
5 application form shall be obtained from the court administrator. The completed
6 application shall then be filed with the administrator stating the information requested.
7 The approval granted under this rule may be revoked or suspended by the chief judge
8 of the judicial district or the chief judge's designee and such revocation or suspension
9 shall apply throughout the State of Minnesota.

10
11 * * *

12
13 **(h) Bonding Privilege Suspension.** A failure to make payment on a
14 forfeited bond within ninety (90) days as above provided shall automatically suspend
15 the surety and its agent from writing further bonds. ~~;~~ ~~and s~~Such suspension shall
16 apply throughout the State of Minnesota and shall continue until for a period of thirty
17 (30) days from the date the principal amount of the bond is deposited in cash with the
18 court administrator. The suspension of bonding privileges under this rule shall apply
19 throughout the State of Minnesota.

20

21 **ADVISORY COMMITTEE COMMENTS--1992~~5~~ AMENDMENTS**
22

23 This Rule is derived from the 4th Dist. R. 8.02. Pretrial release is governed
24 by Minn. R. Crim. P. 6, and this rule supplements the provisions of that rule. The
25 Task Force believes that specific, written standards relating to the issuance and
26 forfeiture of bail bonds would be useful to practitioners, courts, and to those issuing
27 bonds.

28 The Minnesota Supreme Court Advisory Committee on Rules of Criminal
29 Procedure recommended that this local rule be incorporated in the General Rules of
30 Practice for the District Courts for uniform statewide application and the Task Force
31 concurs in that recommendation.

32 Rule 702(h) was amended in 1993, effective January 1, 1994, to establish
33 statewide suspension of bonding privileges for a surety bond and a surety's agent in
34 the event of failure to make payment on a forfeited bond. This rule is necessary to
35 ensure that irresponsible sureties not be allowed to move from district to district.

36 The power to revoke bail bonding privileges must be exercised sparingly.
37 Courts considering this action should give consideration to the appropriate procedure
38 and the giving of notice and an opportunity to be heard if such process is due the
39 bond person. See, e.g., In re Cross, 617 A.2d 97, 100-02 (R.I. 1992) (show cause
40 hearing procedure based on probable cause, with clearly defined burden of proof, not
41 inherently unconstitutional); American Druggists Ins. Co. v. Bogart, 707 F.2d 1229,
42 1234-36 (11th Cir. 1983) (corporate surety authorized by Secretary of Treasury has
43 right under U.S. Constitution to present bonds to court for approval).