STATE OF MINNESOTA

IN SUPREME COURT

CX-89-1863

Order Promulgating Amendments to
General Rules of Practice

ORDER

The Supreme Court Advisory Committee on General Rules of Practice for the District Courts has recommended certain amendments to the General Rules of Practice for the District Courts.

By order dated October 10, 2000, the Court solicited comments on the proposed amendments to be filed no later than December 1, 2000.

The Court has reviewed the comments received and the proposed amendments and is fully advised in the premises.

IT IS HEREBY ORDERED that:

1. The attached amendments to the General Rules of Practice for the District Courts be, and the same are, prescribed and promulgated to be effective on March 1, 2001.

2. These amendments shall apply to all actions or proceedings pending on or commenced on or after the effective date, with the exception of the amendments to Rule 114.13. The amendments to Rule 114.13 shall become effective on further order of the court following the action of the Alternative Dispute Resolution (ADR) Review Board prescribed in paragraph 3 of this order.

3. No later than March 15, 2001, the ADR Review Board shall:

a. Assign transitional and permanent Alternative Dispute Resolution Continuing Education (ADR CE) reporting periods to all neutrals who are not licensed to practice law in Minnesota; and

b. Establish and assign transitional ADR CE reporting requirements and deadlines for all neutrals, which will begin no earlier than July 1, 2001.

All ADR CE reporting is postponed until the further order of this Court promulgating the initial reporting deadlines established by the ADR Review Board.

5. The Court approves the concept of a pilot project for a low-cost litigation alternative recommended in the Advisory Committee report. The Court and the state court administrator will work to implement such a project.

4. The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the statements made therein.

Dated: December 19 , 2000

BY THE COURT:

Kathleen A. Blatz
Chief Justice

Amendments to General Rules of Practice

RULE 113. ~~ASSIGNMENT OF COMPLEX CASES TO SINGLE JUDGE~~ ASSIGNMENT OF CASE(S) TO A SINGLE JUDGE

Rule 113.01. Request for Assignment of A Single Case to a Single Judge

(a) In any case that the court or parties believe is likely to be complex, or where other reasons of efficiency or the interests of justice dictate, the ~~court~~ chief judge of the district or the chief judge's designee may order that all pretrial and trial proceedings shall be heard before a single judge. The court may enter such an order at any time on its own initiative, in response to a suggestion in a party's informational statement filed under Rule 111, or on the motion of any party, and shall enter such an order when the requirements of Rule 113.01(b) have been met. The motion shall comply with these rules and shall be supported by affidavit(s). In any case assigned to a single judge pursuant to this Rule that judge shall actively use enhanced judicial management techniques, including, but not limited to, the setting of a firm trial date, establishment of a discovery cut off date, and periodic case conferences.

(b) Grounds. Unless the court finds that court management of the claims and/or issues involved has become routine or that the interests of justice require otherwise, the court shall order that all pretrial and trial proceedings shall be heard before a single judge upon a showing that the action is likely to involve one or more of the following:

(1) numerous pretrial motions raising difficult or novel legal issues that will be time consuming to resolve;

(2) management of a large number of witnesses or substantial amount of documentary evidence;

(3) management of a large number of separately represented parties;

(4) the opportunity to coordinate with related actions pending in another court;

(5) substantial post-judgment judicial supervision.

Rule 113.02. ~~Factors~~ Consolidation of Cases Within a Judicial District

A motion for assignment of two or more cases pending within a single judicial district to a single judge shall be made to the chief judge of the district in which the cases are pending, or the chief judge's designee.

~~Factors to be considered in determining whether a case should be assigned to a single judge include the following:~~

~~The number of parties;~~

~~The nature of the claims;~~

~~The anticipated length of trial;~~

~~The likelihood of an unusually high number of pretrial court appearances;~~

~~The presence of novel discovery issues; and~~

~~The absence of effective communication between counsel.~~

Rule 113.03. ~~Motion~~ Consolidation of Cases in More Than One District

~~A motion for assignment to a single judge shall be made to the chief judge (or his or her designee) of the District in which the case is pending.~~ When two or more cases pending in more than one judicial district involve one or more common questions of fact or are otherwise related cases in which there is a special need for or desirability of central or coordinated judicial management, a motion by a party or a court's request for assignment of the cases to a single judge may be made to the chief justice of the supreme court. A copy of the motion shall be served on the chief judge of each district in which such an action is pending. When such a motion is made, the chief justice may, after consultation with the chief judges of the affected districts and the state court administrator, assign the cases to a judge in one of the districts in which any of the cases is pending or in any other district. If the motion is to be granted, in selecting a judge the chief justice may consider, among other things, the scope of the cases and their possible impact on judicial resources, the availability of adequate judicial resources in the affected districts, and the ability, interests, training and experience of the available judges. As necessary, the chief justice may assign an alternate or back-up judge or judges to assist in the management and disposition of the cases. The assigned judge may refer any case to the chief judge of the district in which the case was pending for trial before a judge of that district selected by the chief judge.

Advisory Committee Comment—2000 Amendments

Rule 113.01 applies to assignment of a single case within a judicial district or county that does not already use a so-called block assignment system whereby cases are routinely assigned to the same judge for all pretrial and trial proceedings. Although parties can request a single-judge assignment in the informational statement under Rule 111, this rule contemplates a formal motion with facts presented supporting the request in the form of sworn testimony. The grounds for the motion in Rule 113.01(b) were derived from rules 1800 -1811 of the California Special Rules for Trial Courts, Div. V, Complex Cases. If the court finds that management of the claims or issues has become routine, the matter would not rise to the level of requiring assignment to a single judge. A motion to certify a class, for example, might be routine in terms of court management. Once a class has been certified and the matter becomes a class action, however, the complexity may rise to the level that requires a single judge assignment. Under Rule 113.01(a), the motion is to be made to the chief judge (or his or her designee) of the district in which the case is pending.

Rule 113.02 recognizes that motions for consolidation of cases within a single judicial district may be heard by the chief judge of the district or his or her designee.

Rule 113.03 is new, and is intended merely to establish a formal procedure for requesting the chief justice to exercise the power to assign multiple cases in different districts to a single judge when the interests of justice dictate. The power to assign cases has been recognized by the supreme court in a few decisions over the past decade or so. *See, e.g., In re Minnesota Vitamin Antitrust Litigation*, 606 N.W.2d 446 (Minn. 2000); *In re Minnesota Silicone Implant Litigation*, 503 N.W.2d 472 (Minn. 1993); *In re Minnesota L-tryptophan Litigation*, No. C0-91-706 (Minn. Sup. Ct., Apr. 24, 1991); *In re Minnesota Asbestos Litigation*, No. C4-87-2406 (Minn. Sup. Ct., Dec. 15, 1987). The power is derived from the inherent power of the court and specific statutory recognition of that power in MINN. STAT. §§ 480.16 & 2.724 (1998). The rule is intended to establish a procedure for seeking consideration of transfer by the chief justice. The procedure contemplates notice to interested parties and consultation with the affected judges so that the sound administration of the cases is not compromised. Transfer of cases for coordinated pretrial proceedings is an established practice in the federal court system under 28 U.S.C. § 1407. Although this rule is not as complex as its federal counterpart, its purpose is largely the same—to facilitate the efficient and fair handling of multiple cases. Practice under the federal statute has worked well, and is one of the most important tools of complex case management in the federal courts. *See generally* DAVID F. HERR, MULTIDISTRICT LITIGATION: HANDLING CASES BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION (1986 & Supp. 1996). A companion change is made to MINN. R. CIV. P. 63.03, making it clear that when a judge is assigned by order of the chief justice pursuant to this rule that the judge so appointed may not be removed peremptorily under Rule 63 or the statutory restatement of the removal power contained in MINN. STAT. § 542.16 (1998).

RULE 114. ALTERNATIVE DISPUTE RESOLUTION

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Rule 114.13. Training, Standards and Qualifications for Neutral Rosters

* * * *

(g) Continuing Training. All neutrals providing facilitative or hybrid services must attend ~~6~~ eighteen hours of continuing education about alternative dispute resolution subjects ~~annually~~ within the three-year period in which the neutral is required to complete the continuing education requirements. All other neutrals must attend ~~3~~ nine hours of continuing education about alternative dispute resolution subjects ~~annually~~ during the three-year period in which the neutral is required to complete the continuing education requirements. These hours may be attained through course work and attendance at state and national ADR conferences. The neutral is responsible for maintaining attendance records and shall disclose the information to program administrators and the parties to any dispute. The neutral shall submit continuing education credit information to the State Court Administrator's office ~~on an annual basis~~ within sixty days after the close of the period during which his or her education requirements must be completed.

Advisory Committee Comment—~~1996~~ 2000 Amendments

The provisions for training and certification of training are expanded in these amendments to provide for the specialized training necessary for ADR neutrals. The committee recommends that six hours of domestic abuse training be required for all family law neutrals, other than those selected solely for technical expertise. The

committee believes this is a reasonable requirement and one that should significantly facilitate the fair and appropriate consideration of the concerns of all parties in family law proceedings.

Rule 114.13(g) is amended in 2000 to replace the current annual training requirement with a three-year reporting cycle. The existing requirements are simply tripled in size, but need only be accumulated over a three-year period. The rule is designed to require reporting of training for ADR on the same schedule required for CLE for neutrals who are lawyers. *See generally* Rule 3 of Rules of the Supreme Court for Continuing Legal Education of Members of the Bar and Rule 106 of Rules of the Board of Continuing Legal Education. Non-lawyer neutrals should be placed by the ADR Board on a similar three-year reporting schedule

RULE 145. ACTIONS ON BEHALF OF MINORS AND INCOMPETENT PERSONS

* * * *

Rule 145.06. Structured Settlements

If the settlement involves the purchase of an annuity or other form of structured settlement, the court shall:

* * * *

(b) Require that the company issuing the annuity or structured settlement:

(1) Be licensed to do business in Minnesota;

(2) Have a financial rating equivalent to A. M. Best Co. A+, Class ~~8~~ VIII or better;~~,~~ and

(3) Has complied with the applicable provisions of MINN. STAT. § 549.30 to § 549.34;

or that a trust making periodic payments be funded by United States Government obligations;

* * * *

Advisory Committee Comment—~~1995~~ 2000 Amendments

[Add at end of existing comments]

Rule 145.06 (b) is modified by amendment in 2000. The amendment is intended to require the court approving a minor settlement that includes a structured settlement provision to verify that the annuity issuer is licensed to do business and that MINN. STAT. § 549.30–.34 (1998) is followed. The amendment is not intended to impose any additional substantive requirements, as compliance with statutes is assumed under the current rule. The rule will require the trial court to verify the fact of compliance, however, and will probably require submitting this information to the court.

RULE 301. APPLICABILITY OF RULES

Rules 301 through 3123 apply to all proceedings in Family Court. These rules and, where applicable, the Minnesota Rules of Civil Procedure shall apply to family law practice except where they are in conflict with applicable statutes.

RULE 313. CONFIDENTIAL NUMBERS AND TAX RETURNS

Rule 313.01. Social Security Number.

Whenever an individual's social security number is required on any pleading or other paper that is to be filed with the court, the social security number shall be submitted on a separate form entitled Confidential Information Form (see Form 11 appended to these rules) and shall not otherwise appear on the pleading or other paper. As an alternative, the filing party may prepare and file an original and one copy of the pleading or other paper if all social security numbers are completely removed or obliterated from the copy.

Rule 313.02. Tax Returns.

Copies of tax returns required to be filed with the court shall be submitted in a separate envelope marked "CONFIDENTIAL TAX RETURN OF _____ for YEAR(S) _____."

Rule 313.03. Failure to comply.

A party who fails to comply with the requirements of this rule may be deemed to have waived their right to privacy in their social security number or tax return filed with the court and the court may impose appropriate sanctions, including costs necessary to prepare an appropriate redacted copy, for a party's failure to comply with this rule in regard to another individual's social security number or tax return.

Advisory Committee Comment--2000 Amendments

Rule 313 is new in 2000 and is designed to facilitate confidential treatment of social security numbers and tax returns in family court proceedings. Confidentiality is required under both state and federal law. *See* MINN. STAT. § 518.146 (1999 Supp.); 2000 MINN. LAWS ch. 403 (codified as MINN. STAT. § 518.5513, subd 3); 42 U.S.C. § 666(a)(13), (c)(2)(A); 42 U.S.C. § 405(c)(2)(C)(viii). This rule relieves court administration staff from the daunting task of assuring that social security numbers and tax returns are not inadvertently disclosed and places the primary responsibility for maintaining privacy with the persons submitting the information to the court.

State law also requires the social security number to be included in each child support order. *See, e.g.*, MINN. STAT. §§ 256.87, subd. 1a; 257.66; 518.171, subd. 1(a)(2); 518.5853, subd. 5 (1998; 1999 Supp.). This rule contemplates that inclusion of social security numbers may appropriately be accomplished by relegating social security

numbers to a separate page that is referenced in the order.

Rule 355.05. Filing of Pleadings, Motions, Notices and Other Papers

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Subd. 5. Confidential Numbers and Tax Returns. The requirements of Rule 313 of these rules regarding submission of social security numbers and tax returns shall apply to the expedited child support process.

RULE 521. REMOVAL (APPEAL) TO DISTRICT COURT

(a) Trial de novo. Any person aggrieved by an order for judgment entered in conciliation court after contested trial may remove the cause to district court for trial de novo (new trial). An "aggrieved person" may be either the judgment debtor or creditor.

(b) Removal Procedure. To effect removal, the aggrieved party must perform all the following within twenty days after the date the court administrator mailed to that party notice of the judgment order:

(1) Serve on the opposing party or the opposing party's lawyer a demand for removal of the cause to district court for trial de novo. Service shall be by first class mail. Service may also be by personal service in accordance with the provisions for personal service of a summons in district court. The demand for removal shall state whether trial demanded is to be by court or jury, and shall indicate the name, address, and telephone number of the aggrieved party's lawyer, if any. If the aggrieved party is a corporation, the demand for removal must be signed by the party's attorney.

(2) File with the court administrator the original demand for removal with proof of service. The aggrieved party may file with the court administrator within the twenty day period the original and copy of the demand together with an affidavit by the party or the party's lawyer showing that after due and diligent search the opposing party or opposing party's lawyer cannot be located. This affidavit shall serve in lieu of making service and filing proof of service. When an affidavit is filed, the court administrator shall mail the copy of the demand to the opposing party at the party's last known residence address.

(3) File with the court administrator an affidavit by the aggrieved party or that party's lawyer stating that the removal is made in good faith and not for purposes of

delay.

(4) Pay to the court administrator as the fee for removal the amount prescribed by law for filing a civil action in district court, and if a jury trial is demanded under Rule 521(b)(1) of these rules, pay to the court administrator the amount prescribed by law for requesting a jury trial in a civil action in district court. A party who is unable to pay the fees may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes Section 563.01.

* * * *

1993 Committee Comment

Rule 521(b) establishes a twenty-day time period for removing the case to district court. The twenty days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. *Wilkins v. City of Glencoe*, 479 N.W.2d 430 (Minn. App. 1992) (construing rule 6.05 of the Minnesota Rules of Civil Procedure). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including rule 503 of these rules and rule 6.05 of the Minnesota Rules of Civil Procedure.

In district court, personal service may only be made by a sheriff or any other person not less than 18 years of age who is *not* a party to the action. *Reichel v. Hefner*, 472 N.W.2d 436 (Minn. App. 1991). This applies to personal service under this Rule 521. Service may not be made on Sunday, a legal holiday, or election day. MINN. STAT. §§ 624.04, 645.44, subd. 5 (1990); MINN. CONST. art. VII, § 4.

Advisory Committee Comment — ~~1997~~ 2000 Amendments

Rule 521(e)(1), as amended in 1997, allows limited removal to district court from a denial of a motion to vacate the order for judgment or judgment made pursuant to Rule 520(a) or (b). To obtain limited removal under Rule 521(e)(1), a party must follow the same procedural steps for obtaining removal under Rule 521(b), except that the event that triggers the twenty-day time period for effecting removal is the date that the court administrator mails the notice of denial of the motion to vacate the order for judgment or judgment. The law requires that an additional three days be added to the time period when notice is served by mail. *Wilkins v. City of Glencoe*, 479 N.W.2d 430 (Minn. App. 1992).

Under Rule 521(b)(1) as amended in 2000, if the party seeking to remove (appeal) the case to district court is a corporation, the demand for removal must be signed by an attorney authorized to practice law in the district court. This requirement simply restates a requirement recognized by court decision. *See World Championship Fighting, Inc. v. Janos*, 609 N.W.2d 263 (Minn. App. 2000), *rev. denied* (Minn. July 25, 2000). A corporation must be represented by a licensed attorney in district court regardless of the fact that the action originated in conciliation court. *See Nicollet Restoration, Inc. v. Turnham*, 486 N.W.2d 753 (Minn. 1992).

FORM 11. CONFIDENTIAL INFORMATION FORM

(Gen. R. Prac. 313.01)

State of Minnesota **District Court**

County **Judicial District**

Case Type:

Case No. _____

Plaintiff/Petitioner

and

CONFIDENTIAL INFORMATION FORM
(Provided Pursuant to Rule 313.01 of the Minnesota General Rules of Practice)

_____
Defendant/Respondent

		NAME	SOCIAL SECURITY NUMBER
Plaintiff/Petitioner	1.	_____	_____
	2.	_____	_____
	3.	_____	_____
Defendant/Respondent	1.	_____	_____
	2.	_____	_____
	3.	_____	_____
Other Party (e.g.,	1.	_____	_____
minor children)	2.	_____	_____

Information supplied by:_____
(print or type name of party submitting this form to the court)

Signed:_____

Attorney Reg. #:_____

Firm:_____

Address:_____

Date:_____