

STATE OF MINNESOTA
IN SUPREME COURT
CX-89-1863

OFFICE OF
APPELLATE COURTS

DEC 11 2003

FILED

Order Promulgating Amendments to the
General Rules of Practice for the District Courts

ORDER

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

By order dated September 19, 2003, the Court solicited comments on the proposed amendments to be filed no later than November 3, 2003.

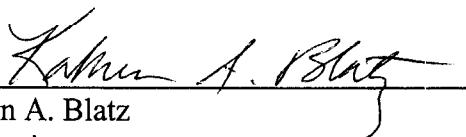
The Court has reviewed the comments received and the proposed amendments and is fully advised in the premises.

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 January 1, 2004.
2. These amendments shall apply to all actions or proceedings pending on or commenced on or after the effective date.
3. The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the statements made therein.
4. The standing order *Re: Attorney's Fees Approval in Default Cases* (4th Jud. Dist. June 2, 2003) (effective August 1, 2003) is vacated effective January 1, 2004.

Dated: December 11, 2003

BY THE COURT:


Kathleen A. Blatz
Chief Justice

AMENDMENTS TO THE GENERAL RULES OF PRACTICE
FOR THE DISTRICT COURTS

RULE 10. TRIBAL COURT ORDERS AND JUDGMENTS

Rule 10.01. When Tribal Court Orders and Judgments Must Be Given Effect

(a) Recognition Mandated by Law. Where mandated by state or federal statute, orders, judgments, and other judicial acts of the tribal courts of any federally recognized Indian tribe shall be recognized and enforced.

(b) Procedure.

(1) Generally. Where an applicable state or federal statute establishes a procedure for enforcement of any tribal court order or judgment, that procedure must be followed.

(2) Violence Against Women Act; Presumption. An order that is subject to the Violence Against Women Act of 2000, 18 U.S.C. § 2265 (2003), that appears to be issued by a court with subject matter jurisdiction and jurisdiction over the parties, and that appears not to have expired by its own terms is presumptively enforceable, and shall be honored by Minnesota courts and law enforcement and other officials so long as it remains the judgment of the issuing court and the respondent has been given notice and an opportunity to be heard or, in the case of matters properly considered ex parte, the respondent will be given notice and an opportunity to be heard within a reasonable time. The presumptive enforceability of such a tribal court order shall continue until terminated by state court order but shall not affect the burdens of proof and persuasion in any proceeding.

Rule 10.02. When Recognition of Tribal Court Orders and Judgments Is Discretionary.

(a) Factors. In cases other than those governed by Rule 10.01(a), enforcement of a tribal court order or judgment is discretionary with the court. In exercising this discretion, the court may consider the following factors:

(1) whether the party against whom the order or judgment will be used has been given notice and an opportunity to be heard or, in the case of matters properly considered

ex parte, whether the respondent will be given notice and an opportunity to be heard within a reasonable time;

(2) whether the order or judgment appears valid on its face and, if possible to determine, whether it remains in effect;

(3) whether the tribal court possessed subject-matter jurisdiction and jurisdiction over the person of the parties;

(4) whether the issuing tribal court was a court of record;

(5) whether the order or judgment was obtained by fraud, duress, or coercion;

(6) whether the order or judgment was obtained through a process that afforded fair notice, the right to appear and compel attendance of witnesses, and a fair hearing before an independent magistrate;

(7) whether the order or judgment contravenes the public policy of this state;

(8) whether the order or judgment is final under the laws and procedures of the rendering court, unless the order is a non-criminal order for the protection or apprehension of an adult, juvenile or child, or another type of temporary, emergency order;

(9) whether the tribal court reciprocally provides for recognition and implementation of orders, judgments and decrees of the courts of this state; and

(10) any other factors the court deems appropriate in the interests of justice.

(b) Procedure. The court shall hold such hearing, if any, as it deems necessary under the circumstances.

Advisory Committee Comment—2003 Adoption

Introduction. Rule 10 is a new rule intended to provide a starting point for enforcing tribal court orders and judgments where recognition is mandated by state or federal law (Rule 10.01), and to establish factors for determining the effect of these adjudications where federal or state statutory law does not do so (Rule 10.02).

The rule applies to all tribal court orders and judgments and does not distinguish between tribal courts located in Minnesota and those sitting in other states. The only limitation on the universe of determinations is that they be from tribal courts of a federally-recognized Indian tribe. These courts are defined in 25 U.S.C. § 450b(e), and a list is published by the Department of the Interior, Bureau of Indian Affairs. See, e.g., 67 FED. REG. 46328 (July 12, 2002).

Tribal court adjudications are not entitled to full faith and credit under the United States Constitution, which provides only for full faith and credit for “public acts, records, and judicial proceedings of every other state.” U. S. CONST. Art IV, § 1. But state and federal statutes have conferred the equivalent

of full faith and credit status on some tribal adjudications by mandating that they be enforced in state court. Where such full faith and credit is mandatory, a state does not exercise discretion in giving effect to the proper judgments of a sister state. *Baker v. Gen. Motors Corp.*, 522 U.S. 222, 233 (1998) (“A final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land.”) Through full faith and credit, a sister state’s judgment is given res judicata effect in all other states. See, e.g., *id.*; *Hansberry v. Lee*, 311 U.S. 32, 42 (1940).

The enforcement in state court of tribal court adjudications that are not entitled to the equivalent of full faith and credit under a specific state or federal statute, is governed by the doctrine of comity. Comity is fundamentally a discretionary doctrine. It is rooted in the court’s inherent powers, as was early recognized in United States jurisprudence in *Hilton v. Guyot*, 159 U.S. 113, 163-164 (1895), where the court said: “No law has any effect, of its own force, beyond the limits of the sovereignty from which its authority is derived. The extent to which the law of one nation, as put in force within its territory, whether by executive order, by legislative act, or by judicial decree, shall be allowed to operate within the dominion of another nation, depends upon what our greatest jurists have been content to call ‘the comity of nations.’”

This inherent power was recognized in Minnesota in *Traders’ Trust Co. v. Davidson*, 146 Minn. 224, 227, 178 N.W. 735, 736 (1920) (citing *Hilton*, 159 U.S. at 227) where the court said: “Effect is given to foreign judgments as a matter of comity and reciprocity, and it has become the rule to give no other or greater effect to the judgment of a foreign court than the country or state whose court rendered it gives to a like judgment of our courts.” In *Nicol v. Tanner*, 310 Minn. 68, 75-79, 256 N.W.2d 796, 800-02 (1976) (citing the Restatement (Second) of Conflicts of Laws § 98 (1971)), the court further developed the doctrine of comity when it held that the statement in *Traders’ Trust Co.* that enforcement required a showing of reciprocity was dictum; that “reciprocity is not a prerequisite to enforcement of a foreign judgment in Minnesota;” and that the default status of a foreign judgment “should not affect the force of the judgment.”

Statutory Mandates. Rule 10.01 reflects the normal presumption that courts will adhere to statutory mandates for enforcement of specific tribal court orders or judgments where such a statutory mandate applies. Federal statutes that do provide such mandates include:

1. Violence Against Women Act of 2000, 18 U.S.C. § 2265 (2003) (full faith and credit for certain protection orders).
2. Indian Child Welfare Act, 25 U.S.C. § 1911(d) (2003) (“full faith and credit” for certain custody determinations).
3. Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B(a) (2003) (“shall enforce” certain child support orders and “shall not seek or make modifications . . . except in accordance with [certain limitations]”).

In addition to federal law, the Minnesota Legislature has addressed custody, support, child placement, and orders for protection. The Minnesota Legislature adopted the Uniform Child Custody Jurisdiction and Enforcement Act, MINN. STAT. §§ 518D.101-518D.317 (2002) which: (1) requires recognition and enforcement of certain child custody determinations made by a tribe “under factual circumstances in substantial conformity with the jurisdictional standards of” the Act; and (2) establishes a voluntary registration process for custody determinations with a 20-day period for contesting validity. MINN. STAT. §§ 518D.103; 104 (2002) (not applicable to adoption or emergency medical care of child; not applicable to extent ICWA controls). In addition, the Minnesota Legislature has adopted the Uniform Interstate Family Support Act, MINN. STAT. §§ 518C.101-518C.902 (2002), which provides the procedures for

enforcement of support orders from another state [“state” is defined to include an Indian tribe, MINN. STAT. § 518C.101(s)(1) (2002)] with or without registration, and enforcement and modification after registration. The Minnesota Legislature has also adopted the Minnesota Indian Family Preservation Act, MINN. STAT. §§ 260.751 – 260.835 (2002), which provides, among other things, that tribal court orders concerning child placement (adoptive and pre-adoptive placement, involuntary foster care placement, termination of parental rights, and status offense placements) shall have the same force and effect as orders of a court of this state. MINN. STAT. § 260.771, subd. 4 (2002).

The facial validity provision in Rule 10.01(b)(2) fills in a gap in state law. MINN. STAT. § 518B.01, subd. 14(e) (2002), authorizes an arrest based on probable cause of violation of tribal court order for protection; although this law includes immunity from civil suit for a peace officer acting in good faith and exercising due care, it does not address facial validity of the order. Similar laws in other jurisdictions address this issue. See, e.g., 720 ILL. COMP. STAT. 5/12-30(a)(2) (Supp. 2003); OKLA. STAT. tit. 22 § 60.9B(1) (2003); WISC. STAT. § 813.128(1) (2001-02).

The Minnesota Legislature has also addressed enforcement of foreign money judgments. The Minnesota Uniform Foreign Country Money-Judgments Recognition Act, MINN. STAT. § 548.35 (2002), creates a procedure for filing and enforcing judgments rendered by courts other than those of sister states. Tribal court money judgments fall within the literal scope of this statute and the statutory procedures therefore may guide Minnesota courts considering money judgments. Cf. *Anderson v. Engelke*, 954 P.2d 1106, 1110-11 (Mont. 1998) (dictum) (statute assumed to allow enforcement by state courts outside of tribal lands, but question not decided). In general, money judgments of tribal courts are not entitled to full faith and credit under the Constitution, and the court is allowed a more expansive and discretionary role in deciding what effect they have. Rule 10.02(a) is intended to facilitate that process.

Discretionary Enforcement: Comity. Where no statutory mandate expressly applies, tribal court orders and judgments are subject to the doctrine of comity. Rule 10.02(a) does not create any new or additional powers but only begins to describe in one convenient place the principles that apply to recognition of orders and judgments by comity.

Comity is also an inherently flexible doctrine. A court asked to decide whether to recognize a foreign order can consider whatever aspects of the foreign court proceedings it deems relevant. Thus Rule 10.02(a) does not dictate a single standard for determining the effect of these adjudications in state court. Instead, it identifies some of the factors a Minnesota judge may consider in determining what effect such a determination will be given. Rule 10.02(a) does not attempt to define all of the factors that may be appropriate for consideration by a court charged with determining whether a tribal court determination should be enforced. It does enumerate many of the appropriate factors. It is possible in any given case that one or more of these factors will not apply. For example, reciprocity is not a pre-condition to enforceability generally, *Nicol*, 310 Minn. at 75-79, 256 N.W.2d at 800-02, but may be relevant in some circumstances. Notice of the proceedings and an opportunity to be heard (or the prospect of notice and right to hearing in the case of ex parte matters) are fundamental parts of procedural fairness in state and federal courts and are considered basic elements of due process; it is appropriate at least to consider whether the tribal court proceedings extended these rights to the litigants. The issue of whether the tribal court is “of record” may be important to the determination of what the proceedings were in that court. A useful definition of “of record” is contained in the Wisconsin statutes. WIS. STAT. § 806.245(1)(c) (2001-02); see also WIS. STAT. § 806.245(3) (2001-02) (setting forth requirements for determining

whether a court is “of record”). The rule permits the court to inquire into whether the tribal court proceedings offered similar protections to the parties, recognizing that tribal courts may not be required to adhere to the requirements of due process under the federal and state constitutions. Some of the considerations of the rule are drawn from the requirements of the Minnesota Uniform Enforcement of Foreign Judgments Act, MINN. STAT. §§ 548.26-33 (2002). For example, contravention of the state’s public policy is a specific factor for non-recognition of a foreign state’s judgment under MINN. STAT. § 548.35, subd. 4(b)(3)(2002); it is carried forward into Rule 10.02(a)(7). Inconsistency with state public policy is a factor for non-recognition of tribal court orders under other states’ rules. See MICH. R. CIV. P. 2.615(C)(2)(c); N.D. R. CT. 7.2(b)(4).

Hearing. Rule 10.02(b) does not require that a hearing be held on the issues relating to consideration of the effect to be given to a tribal court order or judgment. In some instances, a hearing would serve no useful purpose or would be unnecessary; in others, an evidentiary hearing might be required to resolve contested questions of fact where affidavit or documentary evidence is insufficient. The committee believes the discretion to decide when an evidentiary hearing is held should rest with the trial judge.

RULE 110. SELF-HELP PROGRAMS

110.01. Authority for Self-Help Programs.

A District Court for any county may establish a Self-Help Program to facilitate access to the courts. The purpose of a Self-Help Program is to assist Self-Represented Litigants, within the bounds of this rule, to achieve fair and efficient resolution of their cases, and to minimize the delays and inefficient use of court resources that result from misuse of the court system by litigants who are not represented by lawyers. There is a compelling state interest in resolving cases efficiently and fairly, regardless of the financial resources of the parties.

110.02. Staffing.

The Self-Help Program may be staffed by lawyer and non-lawyer personnel, and volunteers under the supervision of regular personnel. Self-Help Personnel act at the direction of the district court judges to further the business of the court.

110.03. Definitions.

(a) “Self-Represented Litigant” means any individual who seeks information to file, pursue, or respond to a case without the assistance of a lawyer authorized to practice before the court.

(b) “Self-Help Personnel” means lawyer and non-lawyer personnel and volunteers under the direction of paid staff in a Self-Help Program who are performing the limited role under this rule. “Self-Help Personnel” does not include lawyers who are providing legal services to only one party as part of a legal services program that may operate along side or in conjunction with a Self-Help Program.

(c) “Self-Help Program” means a program of any name established and operating under the authority of this rule.

110.04. Role of Self-Help Personnel.

(a) Required Acts. Self-Help Personnel shall

(1) Educate Self-Represented Litigants about available pro bono legal services, low cost legal services, legal aid programs, lawyer referral services and legal resources provided by state and local law libraries;

- (2) Encourage Self-Represented Litigants to obtain legal advice;
- (3) Provide information about mediation services;
- (4) Provide services on the assumption that the information provided by the litigant is true; and
- (5) Provide the same services and information to all parties to an action, if requested.

(b) Permitted, but Not Required, Acts. Self-Help Personnel may, but are not required to:

- (1) provide forms and instructions;
- (2) assist in the completion of forms;
- (3) provide information about court process, practice and procedure;
- (4) offer educational sessions and materials on all case types, such as sessions and materials on marriage dissolution;
- (5) answer general questions about family law and other issues and how to proceed with such matters;
- (6) explain options within and outside of the court system;
- (7) assist in calculating guidelines child support based on information provided by the Self-Represented Litigant;
- (8) assist with preparation of court orders under the direction of the court; and
- (9) provide other services consistent with the intent of this rule and the direction of the court, including programs in partnership with other agencies and organizations.

(c) Prohibited Acts. Self-Help Personnel may not:

- (1) represent litigants in court;
- (2) perform legal research for litigants;
- (3) deny a litigant's access to the court;
- (4) lead litigants to believe that they are representing them as lawyers in any capacity or induce the public to rely on them for personal legal advice;
- (5) recommend one option over another option;
- (6) offer legal strategy or personalized legal advice;
- (7) tell a litigant anything she or he would not repeat in the presence of the opposing party;

(8) investigate facts pertaining to a litigants case, except to help the litigant obtain public records; or

(9) disclose information in violation of statute, rule, or case law.

110.05. Disclosure.

Self-Help Programs shall provide conspicuous notice that:

(a) no attorney-client relationship exists between Self-Help Personnel and Self-Represented Litigants;

(b) communications with Self-Help Personnel are neither privileged nor confidential;

(c) Self-Help Personnel must remain neutral and may provide services to the other party; and

(d) Self-Help personnel are not responsible for the outcome of the case.

Program materials should advise litigants to consult with their own attorney if they desire personalized advice or strategy, confidential conversations with an attorney, or if they wish to be represented by an attorney in court.

110.06. Unauthorized Practice of Law.

The performance of services by Self-Help Personnel in accordance with this rule shall not constitute the unauthorized practice of law.

110.07. No Attorney-Client Privilege or Confidentiality.

Except as provided in Rule 110.09, information given by a Self-Represented Litigant to court administration staff or Self-Help Personnel is neither confidential nor privileged. No attorney-client relationship exists between Self-Help Personnel and a Self-Represented Litigant. Notwithstanding the foregoing, Self-Help Personnel who are also lawyers and are permitted to practice law outside the role of Self-Help Personnel under this rule must abide by all applicable Rules of Professional Conduct regarding confidentiality and conflicts of interest.

110.08. Conflict.

Notwithstanding ethics rules that govern attorneys, certified legal interns, and other persons working under the supervision of an attorney, there shall be no conflict of interest when Self-Help Personnel provide services to both parties, provided, however, that Self-Help

Personnel who are also lawyers and are permitted to practice law outside the role of Self-Help Personnel under this rule, must abide by all applicable Rules of Professional Conduct regarding conflicts of interest.

110.09. Access to Records.

All records made or received in connection with the official business of a Self-Help Program relating to the address, telephone number or residence of a Self-Represented Litigant are not accessible to the public or the other party.

Advisory Committee Comment—2003 Adoption

Rule 110 is a new rule adopted in 2003 on the recommendation of a pro se implementation committee to facilitate access to and use of the courts by pro se litigants. It is modeled after similar family law provisions in other jurisdictions. See, e.g., CA. FAM. CODE §§ 10000 –100015 (West 2003); FLA .FAM. L. R. P. 12.750 (West 2003); OR .REV. STAT. § 3.428 (2003); WASH. REV. CODE § 26.12.240 (2003); WASH. R. GEN. GR 27 (West 2003).

The rule defines and communicates to interested parties the role of Self-Help Personnel. Definition of roles is important because of the potential for confusion. Rule 110.03(b) intentionally limits the definition of Self-Help Personnel to exclude lawyers who provide services to one party, as is commonly done by legal service program attorneys. Because of this definition, Rule 110.07 does not limit the creation of an attorney-client relationship in such attorney-client relationships. Rules 110.07-.08 recognize that Self-Help Personnel who are otherwise engaged in or authorized to engage in the practice of law may have obligations to clients outside the Self-Help Program that can affect their relationships to Self-Represented Litigants within the Self-Help Program.

RULE 115. MOTION PRACTICE

* * *

Rule 115.03. Dispositive Motions.

(a) No motion shall be heard until the moving party pays any required motion filing fee, serves a copy of the following documents on opposing counsel, and files the original with the court administrator at least 28 days prior to the hearing:

- (1) Notice of motion and motion;
- (2) Proposed order;
- (3) Any affidavits and exhibits to be submitted in conjunction with the motion; and
- (4) Memorandum of law.

(b) The party responding to the motion shall pay any required motion filing fee, serve a copy of the following documents on opposing counsel, and ~~shall~~ file the originals with the Court Administrator at least 9 days prior to the hearing:

- (1) Memorandum of law; and
- (2) Supplementary affidavits and exhibits.

* * *

Rule 115.04. Non-Dispositive Motions.

(a) No motion shall be heard until the moving party pays any required motion filing fee, serves a copy of the following documents on the other party or parties, and files the original with the court administrator at least 14 days prior to the hearing:

- (1) Notice of motion and motion;
- (2) Proposed order;
- (3) Any affidavits and exhibits to be submitted in conjunction with the motion; and
- (4) Any memorandum of law the party intends to submit.

(b) The party responding to the motion shall pay any required motion filing fee, serve a copy of the following documents on the moving party and other interested parties, and ~~shall~~ file the original with the court administrator at least 7 days prior to the hearing:

- (1) Any memorandum of law the party intends to submit; and

(2) Any relevant affidavits and exhibits.

* * *

Advisory Committee Comment – 2003 Amendments

The rule is amended in 2003 to include a reference to the requirement for paying a motion filing fee. A new statute in 2003 imposes a fee for “[filing a motion or response to a motion in civil, family, excluding child support, and guardianship case.” See 2003 MINN. LAWS 1st Spec. Sess., ch. 2, art. 2, § 2, to be codified at MINN. STAT. § 357.021, subd. 2(4).

**RULE 303. MOTIONS; EX PARTE RELIEF; ORDERS TO SHOW CAUSE;
ORDERS AND DECREES**

* * *

Rule 303.03. Motion Practice.

(a) Requirements for Motions.

(1) **Moving Party, Supporting Documents, Time Limits.** No motion shall be heard unless the initial moving party pays any required motion filing fee, serves a copy of the following documents on opposing counsel, and files the original with the court administrator at least 14 days prior to the hearing:

- (i) Notice of motion in form required by Minn. Gen. R. Prac. 303.01(a);
- (ii) Motion;
- (iii) Any relevant affidavits and exhibits; and
- (iv) Any memorandum of law the party intends to submit.

(2) **Motion Raising New Issues.** A responding party raising new issues other than those raised in the initial motion shall pay any required motion filing fee, serve a copy of the following documents on opposing counsel, and ~~shall~~ file the original with the court administrator at least 10 days prior to the hearing:

- (i) Notice of motion in form required by Minn. Gen. R. Prac. 303.01(a);
- (ii) Motion;
- (iii) Any relevant affidavits and exhibits; and
- (iv) Any memorandum of law the party intends to submit.

(3) **Responding Party, Supporting Documents, Time Limits.** The party responding to issues raised in the initial motion, or the party responding to a motion which raises new issues, shall pay any required motion filing fee, serve a

copy of the following documents on opposing counsel, and ~~shall~~ file the original with the court administrator at least five days prior to the hearing, inclusive of Saturdays, Sundays, and holidays:

- (i) Any memorandum of law the party intends to submit; and
- (ii) Any relevant affidavits and exhibits.

* * *

Advisory Committee Comment—2003 Amendments

The rule is amended in 2003 to include a reference to the requirement for paying a motion filing fee. A new statute in 2003 imposes a fee for “filing a motion or response to a motion in civil, family, excluding child support, and guardianship case.” See 2003 MINN. LAWS 1st Spec. Sess., ch. 2, art. 2, § 2, to be codified at MINN. STAT. § 357.021, subd. 2(4).

RULE 119. APPLICATIONS FOR ATTORNEYS' FEES

* * *

Rule 119.05. Attorneys' Fees in Default Proceedings.

(a) A party proceeding by default and seeking an award of attorneys' fees that has established a basis for the award under applicable law may obtain approval of the fees administratively without a motion hearing, provided that:

(1) the fees requested do not exceed fifteen percent (15%) of the principal balance owing as requested in that party's pleadings, up to a maximum of \$3,000.00. Such a party may seek a minimum of \$250.00; and

(2) the requesting party's pleading includes a claim for attorneys' fees in an amount greater than or equal to the amount sought upon default; and

(3) the defaulting party, after default has occurred, has been provided notice of the right to request a hearing under section (c) of this rule, a form for making such a request substantially similar to Form 119.05, and the affidavit required under Rule 119.02.

(b) A party may request a formal hearing and seek fees in excess of the amount described herein if that party provides the court with evidence relevant to the amount of attorneys' fees requested as established by the factors a court considers when determining the reasonableness of the attorneys' fees.

(c) A defaulting party may request a hearing and further judicial review of the attorneys' fees requested by completing a "Request for Hearing" provided by the plaintiff substantially similar to Form 119.05. A party may serve the form, at any time after a default has occurred, provided that the defaulting party is given at least twenty (20) days notice before the request for judgment is made. A defaulting party must serve the Request for Hearing upon the requesting party or its counsel within twenty (20) days of its receipt. Upon timely receipt of a Request for Hearing the party seeking fees shall request a judicial assignment and have the hearing scheduled.

(d) Rule 119.05 does not apply to contested cases, ancillary proceedings (e.g., motions to compel or show cause) or proceedings subsequent to the entry of judgment.

* * *

Advisory Committee Comment—2003 Adoption

Rule 119.05 is a new rule to establish a streamlined procedure for considering attorneys' fees on matters that will be heard by default. The rule does not apply to situations other than default judgments, such as motions to compel discovery, motions to show cause, sanctions matters, or attorneys' fees in contested matters. This subsection is modeled on a rule adopted by the Fourth Judicial District and implemented as a local standing order. A simpler procedure for defaults is appropriate and will serve to conserve judicial resources, and it is appropriate to have a uniform rule throughout Minnesota.

New Form 119.05 is intended to provide useful information to the defaulting party and some care has gone into its drafting. Although use of the form is not required, the requirement that any notice conform "substantially" to the form should be heeded. The committee has attempted to use language that fairly advises the defaulting party of the procedure under Rule 119.05 without threatening consequences or confusing the defaulting party on the effect of either contesting or not contesting the fee award. The rule requires that notice be given after the defendant has defaulted. Notice given earlier is not effective to comply with the rule, as such notice is likely to confuse the recipient as to the differing procedures and timing for response to the Summons and responding to the request for fees. An affidavit detailing the basis for the award as required under rule 119.02 must accompany the notice and the form.

The rule does not affect the amounts that may be recovered for attorneys' fees; it allows either side to obtain a hearing on the request for fees; the rule supplies an efficient mechanism for the numerous default matters where a full hearing is not required. Similarly, the rule does not remove the requirement that a party seeking fees file a motion; it simply provides a mechanism for resolution of some motions without formal hearings.

FORM 119.05

NOTICE AND REQUEST FOR HEARING TO DETERMINE ATTORNEYS' FEES AWARD

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____ (Plaintiff)

vs.

NOTICE AND REQUEST FOR HEARING TO DETERMINE ATTORNEYS' FEES AWARD

_____ (Defendant(s))

Court File No.: _____

TO: _____, JUDGMENT DEBTOR:
(Provide Name)

The above-named plaintiff has commenced an action against you and you are in default because you failed to timely serve an Answer. The plaintiff is now seeking an award of attorneys' fees in addition to the principal, interest and court costs in this action. If you do not contest the attorney fee award by completing this form and returning it to the (plaintiff)(plaintiff's attorney) identified below within twenty (20) days, the court may award fees up to the amount of \$_____, calculated as fifteen percent (15%) of the principal balance owing as requested in the Complaint up to a maximum of \$3,000.00 but not less than \$250.00. Attached to this notice is an affidavit from the plaintiff explaining its basis for an award of attorney fees. If you contest the reasonableness of the attorney fees, the plaintiff may seek an award of fees in excess of the amount indicated above, and the Court may award an amount larger or smaller than the amount indicated above.

You must return this form to the (plaintiff)(plaintiff's attorney) identified below within twenty (20) days of its receipt. Failure to timely return the form may result in judgment for the requested fees being granted.

NOTE: This form is not a substitute for an Answer to the action that has been commenced against you and will not preclude the entry of judgment for the principal claim. This form is limited solely to requesting a judicial review of the attorneys' fees requested by the plaintiff. Please contact legal counsel for advice related to serving an Answer or completing this form.

REQUEST FOR COURT HEARING

I request a hearing to determine the reasonableness of the attorneys' fees requested by the plaintiff.

(Defendant(s))

Return this form to:

(Plaintiff)(Plaintiff's Attorney)

(Address)

RULE 302. COMMENCEMENT; CONTINUANCE; TIME; PARTIES

* * *

Rule 302.01. Commencement of Proceedings.

* * *

(b) Joint Petition.

(1) No summons shall be required if a joint petition is filed. Proceedings shall be deemed commenced when both parties have signed the verified petition.

(2) Where the parties to a proceeding agree on all property issues, have no children together, the wife is not pregnant, and the wife has not given birth since the date of the marriage to a child who is not a child of the husband, the parties may proceed using a joint petition, agreement, and judgment and decree for marriage dissolution without children. Form 12 appended to these rules is a sufficient form for this purpose.

(3) Upon filing of the “Joint Petition, Agreement and Judgment and Decree,” and Form 11 appended to these rules, and a Notice to the Public Authority if required by Minn. Stat. § 518.551, subd. 5(a), the court administrator shall place the matter on the default calendar for approval without hearing pursuant to Minn. Stat. § 518.13, subd. 5. A Certificate of Representation and Parties and documents required by Rules 306.01 and 306.02 shall not be required if the “Joint Petition, Agreement and Judgment and Decree” provided in Form 12 is used.

(4) Court Administrators in each Judicial District shall make the “Joint Petition, Agreement and Judgment and Decree for Marriage Dissolution Without Children” available to the public at a reasonable cost, as a fill-in-the-blank form.

* * *

Advisory Committee Comment—2003 Amendments

Subsections (2), (3), and (4), and Form 12, are new in 2003 and were recommended for adoption by the Minnesota State Bar Association’s Pro Se Implementation Committee.

Subsections (2) and (3) of Rule 302.01(b) intended to provide a streamlined process for marriage dissolutions without children, where the parties agree on all property issues. These rule provisions essentially create a new process, commenced with a combined petition, stipulation and judgment and decree. Although intended to facilitate

handling of cases by parties appearing without an attorney, it is available to represented parties as well. A new form is provided and should be made readily available to litigants. If either party to the proceedings is receiving public assistance, a Notice to Public Authority is also required. The Joint Petition, Agreement, and Judgment and Decree includes a statement regarding non-military status and a pro se waiver of right to be represented by a lawyer, thus satisfying the requirements of Rule 306.01(c). Court Administrators shall place the matter on the default calendar for final hearing without filing of Form 10 appended to the Rules. The Joint Petition, Agreement and Judgment and Decree may be used by parties represented by attorneys or parties representing themselves. The committee believes that the Joint Petition, Agreement, and Judgment and Decree procedure will reduce costs for litigants, reduce paper handling and storage expenses for the courts, and improve access to the courts. Attorneys should approach the use of a Joint Petition with care. The amendment of this rule to allow use of a joint petition does not modify the professional liability constraints on joint representation of parties with divergent interests. As part of this amendment, Rule 306.01 is also amended for internal consistency.

RULE 306. DEFAULT

Rule 306.01. Scheduling of Final Hearing.

Except when proceeding under Rule 302.01(b) by Joint Petition, Agreement and Judgment and Decree, To place a matter on the default calendar for final hearing or for approval without hearing pursuant to Minnesota Statutes, section 518.13, subdivision 5, the moving party shall submit a default scheduling request substantially in the form set forth in Form 10 appended to these rules and shall comply with the following, as applicable:

(a) Without Stipulation-No Appearance. In all default proceedings where a stipulation has not been filed, an affidavit of default and of nonmilitary status of the defaulting party or a waiver by that party of any rights under the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, shall be filed with the court.

(b) Without Stipulation-Appearance. Where the defaulting party has appeared by a pleading other than an answer, or personally without a pleading, and has not affirmatively waived notice of the other party's right to a default hearing, the moving party shall notify the defaulting party in writing at least ten (10) days before the final hearing of the intent to proceed to Judgment. The notice shall state:

You are hereby notified that an application has been made for a final hearing to be held not sooner than three (3) days from the date of this notice. You are further notified that the court will be requested to grant the relief requested in the petition at the hearing.

The default hearing will not be held until the notice has been mailed to the defaulting party at the last known address and an affidavit of service by mail has been filed.

(c) Default with Stipulation. Whenever a stipulation settling all issues has been executed by the parties, the stipulation shall be filed with an affidavit of nonmilitary status of the defaulting party or a waiver of that party's rights under the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, if not included in the stipulation.

In a stipulation where a party appears pro se, the following waiver shall be executed by that party:

I know I have the right to be represented by a lawyer of my choice. I hereby expressly waive that right and I freely and voluntarily sign the foregoing stipulation.

* * *

Advisory Committee Comment—2003 Amendment

Rule 306.01 is amended in 2003 to add a new first clause. The purpose of this change is to include in the rules an express exemption of the proceedings from the requirements of the rule when the parties proceed by Joint Petition, Agreement and Judgment and Decree as allowed by new Rule 302.01(b).

Rule 306.02. Preparation of Decree.

Except in a proceeding under Rule 302.01(b) commenced by Joint Petition, Agreement and Judgment and Decree, or in a scheduled default matter, proposed findings of fact, conclusions of law, order for judgment and judgment and decree shall be submitted to the court in advance of, or at, the final hearing.

* * *

Advisory Committee Comment—2003 Amendment

Rule 306.02 is amended in 2003 to add a new first clause. The purpose of this change is to include in the rules an express exemption of the proceedings from the requirements of the rule when the parties proceed by Joint Petition, Agreement and Judgment and Decree as allowed by new Rule 302.01(b).

6. 180 Day Requirement

Husband has been living in Minnesota for the past six (6) months:

YES NO.

Wife has been living in Minnesota for the past six (6) months:

YES NO.

7. Armed Forces

Husband is a member of the armed forces: YES NO.

Wife is a member of the armed forces: YES NO.

If YES, has the member of the armed forces been stationed in Minnesota for the past six (6) months? YES NO.

8. Other Proceedings

A separate proceeding for dissolution, legal separation or annulment has already been started by husband or wife in Minnesota or another state:

YES NO. If YES, the type of proceeding is: marriage dissolution legal separation annulment; the proceeding is in _____

County in the State of _____ and the Court file number is _____. (If a separate proceeding has been started, you must complete the other proceeding or have it dismissed before filing this Joint Petition.)

9. Marriage Cannot be Saved

There has been an irretrievable breakdown of our marriage relationship.

10. Protection or Harassment Order

An *Order for Protection* or a *Harassment/Restraining Order* is in effect regarding

Husband and Wife: YES NO. If YES, the *Order* protects:

Husband Wife.

The *Order* was filed in _____ County on the date: _____,
Month Day Year
and the Court file number is _____. **A copy of the Order is attached to this Joint Petition.**

11. Name Change

- a. Neither person wants to change his/her name.
- b. Wife Husband wants to change his/her name to: (*full name, not initials*)

first *middle* *last*

This name change request is made with no intent to defraud or mislead anyone:

- True False

The person requesting the name change has been convicted of a felony :

- YES NO

If YES:

i. Notice of this request for name change has been given to the proper authority as required by MINN. STAT. § 259.13. (**IMPORTANT NOTICE:** If you are a convicted felon and you request a name change without following the requirements of MINN. STAT. § 259.13, using the new last name after your divorce is a gross misdemeanor.)

ii. An *Affidavit of Service of the Notice* marked Exhibit "A" has been attached to this Joint Petition.

12. Public Assistance: (Note: If either person is receiving public assistance from the State of Minnesota or applies for it after this proceeding is started, notice of this marriage dissolution action must be given to the county's collections and support office. See MINN. STAT § 518.551, subd. 5).

a. Husband receives public assistance from the State of Minnesota:

- Yes No.

If YES, the assistance is from _____ County. (check all that apply)

General Assistance ----- \$ _____

Investments or Rental Income ---- \$ _____

Pension----- \$ _____

Other _____ ----- \$ _____

identify source

Gross Income Total ----- \$ _____ per month

15. Medical Insurance (Medical Insurance does not include Minnesota Care or Medical Assistance.)

a. Wife has medical dental insurance **or** no insurance.

b. Husband has medical dental insurance **or** no insurance.

AGREEMENT OF HUSBAND AND WIFE

1. We have made this agreement to settle once and for all what we owe to each other and what we can expect to receive from each other. Each of us states that nothing has been held back, and that we have honestly included everything we could think of in listing our assets (everything we own and that is owed to us) and our debts (everything we owe) and that we believe the other has been open and honest in writing this agreement.

2. We will sign and exchange any papers that might be needed to complete this agreement before or after the divorce.

3. Real Estate

Real estate includes a homestead, condominium, apartment building, vacant land, contract for deed interest, remainder interest, and more.

a. Husband owns no real estate by himself or with anyone else.

b. Wife owns no real estate by herself or with anyone else.

c. Husband and/or Wife own real estate as described on the Real Estate Attachment(s).

(Use a separate Real Estate Attachment sheet for each parcel of real estate.) All Real Estate Attachments are part of this Joint Petition, Agreement, Judgment and Decree and we agree that the real estate shall be awarded as stated on the Real Estate Attachment(s).

Check one:

- There is one Real Estate Attachment OR
- There are _____ Real Estate Attachments.

4. Non-Marital Property

Non-marital Property means: (1) anything that you or your spouse owned before the marriage; (2) a gift, bequest, devise, or inheritance made by a third party to one but not to the other spouse; (3) anything that you or your spouse got in trade or in exchange for your non-marital property; (4) anything that is an increase in the value of non-marital property (STOP: Property can be part non-marital and part marital. Defining and valuing non-marital property can be complicated. If you have any concerns or questions, you should stop here and talk to an attorney.) (5) anything you or your spouse received after the valuation date set by the Court; or (6) anything defined as non-marital property by a valid antenuptial contract (STOP: If you have an antenuptial contract, you should stop here and talk to an attorney.)

a. Husband owns non-marital property he wants awarded to him by the Court:

- YES NO If YES, Husband and Wife agree that that the following property is Husband's non-marital property and shall be awarded to Husband: _____
- _____
- _____

The total value of Husband's non-marital property is \$ _____

b. Wife owns non-marital property she wants awarded to her by the Court:

- YES NO If YES, Husband and Wife agree that the following property is Wife's non-marital property and shall be awarded to

Wife: _____

The total value of Wife's non-marital property is \$_____

5. **Division of Marital Property**

Marital Property means almost anything that you or your spouse own that you or your spouse received during the marriage, even during the times that you and your spouse were separated. This includes real estate, boats, cabins, household goods, furniture, jewelry, and other things.

See attached Asset Sheet listing all assets. The Asset Sheet is part of this Joint Petition. The Asset Sheet must be attached to the Joint Petition, even if husband and wife have no assets.

6. **Division of Marital Debts**

Marital Debts means debts incurred by you or your spouse during the marriage, even during the times that you and your spouse were separated. Do not include monthly expenses you pay in full each month, such as telephone and utilities.

See attached Debt Sheet listing all debts. The Debt Sheet is part of this Joint Petition. The Debt Sheet must be attached to the Joint Petition, even if wife and husband have no debts.

7. **Spousal Maintenance (alimony)**

No arrearages in maintenance due under any previous Order of the Court shall merge with this Judgment and Decree. This means that any past due amounts of spousal maintenance are still owed, no matter which option is checked below.

Check One

_____a. Each of us forever gives up any right to spousal maintenance (alimony) that we may have and the Court is divested of jurisdiction over spousal

maintenance. This means we may never ask the court to order spousal maintenance, even if our financial situations change in the future or the law on spousal maintenance changes in the future.

_____b. Spousal Maintenance is reserved. Neither husband nor wife shall pay or receive spousal maintenance at this time. Either person may ask the court to order spousal maintenance in the future through the motion process, if there are facts and law that support the request.

_____c. Husband Wife shall pay temporary spousal maintenance to the other party in the amount of \$_____per month by the first day of the month, starting the first month after entry of the judgment for divorce and ending on _____(insert a date). Payment shall be through income withholding.

_____d. Husband Wife shall pay permanent spousal maintenance to the other party in the amount of \$_____per month by the first day of the month, starting the first month after entry of the judgment for divorce. Payment shall be through income withholding. Permanent spousal maintenance is needed because: _____

Income Withholding:

Husband's Wife's employer, trustee, or other payor of funds shall withhold this monthly amount and mail it to Minnesota Child Support Payment Center. Until income withholding starts, the person ordered to pay maintenance shall send the payments to: Support Payment Center, P.O. Box 64326, St. Paul,

MN 55164-0326. Checks must be payable to Minnesota Child Support Payment Center.

8. Insurance Coverage

Husband and wife shall each provide for his or her own health and dental insurance. Either party may be eligible to extend for a limited time, at his/her own expense, the dependent coverage available under the other party's insurance plan, pursuant to federal and state statutes.

9. Other:

We also agree to the following:

BASED UPON THE ABOVE INFORMATION, Husband and Wife request that the Court issue a final judgment and decree terminating our marriage and ordering the terms of this Agreement.

READ and SIGN the **Verification and Acknowledgments.**

STATE OF MINNESOTA)
)
COUNTY OF _____) ss.
(County where documents signed)

Verification and Acknowledgments

- a. I have read this document. To the best of my knowledge, information and belief the information contained in this document is well grounded in fact and is warranted by existing law.
- b. I have not been determined by any Court in Minnesota or in any other State to be a frivolous litigant and I am not the subject of an *Order* precluding me from serving or filing this document.
- c. I am not serving or filing this document for any improper purpose, such as to harass the other party or to cause delay or needless increase in the cost of litigation or to commit a fraud on the Court.
- d. I understand that if I am not telling the truth or if I am misleading the Court or if I am serving or filing this document for an improper purpose, the Court can order me to pay money to the other party, including the reasonable expenses incurred by the other party because of the cost of serving or filing this document, Court costs, and reasonable attorney’s fees.
- e. **WAIVER (Rule 306.01(c)):** I know I have the right to be represented by a lawyer of my choice. I hereby expressly waive that right and I freely and voluntarily sign the foregoing stipulation.

DATE: _____ / _____ / _____
Month Day Year

Signature of Husband
(Sign only in presence of notary public)

(_____) _____
Daytime Telephone Number of Husband

Notary Seal

Signed and sworn to before me on _____
(date)

by _____
Notary Public

HUSBAND'S ATTORNEY

Husband is acting as his own attorney OR
 is represented by the following attorney:

_____ (Name)
_____ (Street Address)
_____ (City ,State, Zip Code)
_____ (Telephone)
_____ (Atty. Reg. #)

DATE: _____ / _____ / _____
Month Day Year

Signature of Wife
(Sign only in presence of notary public)

() _____
Daytime Telephone Number of Wife

Notary Seal

Signed and sworn to before me on _____
(date)

by _____
Notary Public

WIFE'S ATTORNEY

Wife is acting as her own attorney OR
 is represented by the following attorney:

_____ (Name)
_____ (Street Address)
_____ (City ,State, Zip Code)
_____ (Telephone)
_____ (Atty. Reg. #)

COURT ORDER

This case came before the Court without a hearing on the parties' Joint Petition for Dissolution of Marriage. The Court, having reviewed the file, makes the following Order:

1. The parties' Joint Petition and Attachments contains the necessary facts and includes an agreement on all issues before the Court. The real estate, if any, and the personal property of the parties is hereby awarded according to the division set out in their foregoing Joint Petition, which is made part of this final judgment. Debts and liabilities of the parties must be paid as provided in their foregoing Joint Petition. The parties are ordered to obey all of its provisions.
2. The marriage between the parties is dissolved and the parties are single.
3. Husband's Wife's name is changed to:

first

middle

last

4. Each party shall execute any documents necessary to transfer real estate and personal property as awarded herein without further order of the Court. Should either party fail to execute the necessary documents, a certified copy of the Judgment and Decree shall operate to transfer title as awarded herein.
5. NOTICE: IF THE AGREEMENT OF THE PARTIES INCLUDES AN AWARD OF SPOUSAL MAINTENANCE, Form 3, Appendix A, of the General Rules of Practice for the District Courts is incorporated and made a part of this final judgment. Appendix A contains, among other things, provisions regarding Payments to Public Agency pursuant to Minnesota Statutes § 518.551, subdivision 1; Rules of Maintenance; Wage and Income Deduction of Maintenance pursuant to Minnesota Statutes § 518.6111; Change of Address or Residence; Cost of Living Increase of Maintenance pursuant to Minnesota Statutes § 518.641; and Judgments for Unpaid Maintenance pursuant to Minnesota Statutes § 548.091.
6. General Rule of Practice 125 notwithstanding, let Judgment be entered immediately.

Dated: _____

Judge of District Court

The foregoing facts were found by me after due hearing and the Order thereon is recommended.

Dated

Referee of District Court

Judgment

I certify the above constitutes the Judgment of the Court.

Court Administrator

Real Estate Attachment

Fill out a separate Attachment for each parcel of real estate

1. Real Estate belongs to :

_____ (List all owners)

2. Street Address of the real estate is:

City _____ State _____ Zip Code _____
The property is in _____ County.

3. Legal Description is: (Use the full legal description from the deed. If the legal description is long, you may use an attachment. Type or print neatly.)

4. Purchase date _____ (month , day, year) and purchase price:\$ _____

5. Mortgages or loans: (Write "NONE" if there is no mortgage)

1st Mortgage: Amount currently owed \$ _____ and name of lender _____

2nd Mortgage: Amount currently owed \$ _____ and name of lender _____

6. Current Market Value of this property:

\$ _____

7. This property is the homestead: _____ Yes _____ No

Agreement of the Parties

1. All right, title, and interest of husband and wife in the real estate described above shall be awarded to:

Husband Wife

2. Husband and Wife also agree that: (Describe any liens in favor husband or wife, or other agreements about the use, sale of, or award of the property. Attach additional pages if needed. If there are no other agreements, write "None".)

3. The Mortgage(s) or Loan(s) described above shall be paid by Husband Wife starting on the following date: _____ (write "NONE" if there is no mortgage or loan.)

Attachment "A"
DIVISION OF ASSETS AND VALUE

Husband's Name: _____

Wife's Name: _____

1. We agree on how to divide our assets (everything we own and that is owed to us).
2. Each person shall receive as their own all assets in their column.

Definitions: "Current Fair Market Value" is an estimate of the amount of money you could get if you sold the item to a stranger, such as through a newspaper advertisement. It does not mean what you paid for it originally, and it does not mean what it would cost you to replace it if you lost it. If you are still paying for an item, list it in husband's or wife's column at the *present value*.

"Present value" means the current fair market value minus the amount you still owe.

Who Gets the Item and What is the Value

<p>DESCRIPTION OF ASSETS</p> <p><input type="checkbox"/> If you do not have the type of property described, enter a zero in the columns for Husband and Wife.</p> <p><input type="checkbox"/> To avoid confusion at a later date, describe each item as clearly as possible. For example, include the last 4 digits of account numbers (xxx2873), names of banks, & whose name is on the title or account, if applicable.</p> <p><input type="checkbox"/> List all property owned separately or together, no matter when it was acquired, except do not list the non-marital property described at #4 of the Joint Petition.</p>	<p>*Enter the current fair market value or present value of the item in the column of the person getting the item.</p>	
	*HUSBAND	*WIFE
Cash on hand:	\$	\$
Cash in banks/credit unions: (Name of bank, last 4 digits of account number, whose name is on the account)		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Stocks/Bonds:		
	\$	\$
	\$	\$
	\$	\$

	Husband	Wife
Notes (money owed to you in writing):		
	\$	\$
	\$	\$
Money owed to you (not evidenced by a note):		
	\$	\$
	\$	\$
	\$	\$
Business interests: (Name of business, who owns it)		
	\$	\$
	\$	\$
Automobiles: (Year, Make, Model) (Reminder: Use present value if you are still paying for the items.)		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Boats:		
	\$	\$
	\$	\$
Other vehicles: (Snowmobiles, 4-Wheelers, etc.)		
	\$	\$
	\$	\$
	\$	\$
Retirement plans		
<input type="checkbox"/> Profit Sharing or Pension: (Enter "present value". Contact plan administrator for the present value. Include name of employer/group providing the plan, and type of plan.)		
	\$	\$
	\$	\$
<input type="checkbox"/> 401(k), IRAs or other: (Enter current account balance, name of bank where funds are held, whose name is on the account.)		
	\$	\$
	\$	\$
	\$	\$
Furniture & furnishings:		
<input type="checkbox"/> We have already divided the furniture and furnishings in a fair manner. (Enter in each spouses' column the total value of their share of the furniture and furnishings already divided.)	\$	\$
<input type="checkbox"/> We agree to divide the furniture and furnishings as follows: (List items not included above.)		
	\$	\$

	Husband	Wife
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Collectibles & Jewelry:		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Life insurance: (cash surrender value) (Name of insurance company and last 4 digits of policy number.)		
	\$	\$
	\$	\$
Sporting & entertainment & electronic equipment: (TV, stereo, guns, etc.)		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Real Estate:		
Do Not List Here. Use Real Estate Attachment.		
Other assets:		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Total Value of Property To Each Person: (Excluding Real Estate, and any Non-Marital Property listed at Paragraph #4 of the Joint Petition.)	Husband \$	Wife \$

Attachment "B"
DIVISION OF LIABILITIES/DEBTS

Husband's Name: _____

Wife's Name: _____

Date we filled out this form: _____

1. We agree on how to divide our marital debts (debts we have incurred since our marriage date, either separately or together).
2. Each person shall pay as their own the debts listed in their column, and shall not ask the other person to pay these debts/bills.
3. We have listed all marital debts we know of on this Attachment. Any debts incurred by one of us alone and not listed on this Attachment shall be paid by the person whose name is on the debt/bill.

DESCRIPTION OF DEBT(S)	*Write the current amount owed in the column of the person who will pay it.	
	*HUSBAND	*WIFE
<input type="checkbox"/> If you do not have the type of debt described, enter a zero in the columns for Husband and Wife.		
<input type="checkbox"/> To avoid confusion at a later date, describe each debt as clearly as possible. For example, state who the debt is owed to, whether husband's or wife's name is on the debt, and the last 4 digits of account numbers (xxx3094), if applicable.		
<input type="checkbox"/> List all debts in husband's name alone and in wife's name alone and in both names together. Include debts incurred during the marriage and after separation. Do not include bills you pay in full each month.		
Mortgages and loans on Real Estate: Do not list here. Use the Real Estate Attachment.		
Charge/credit card accounts:		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Auto loans:		
	\$	\$
	\$	\$
	\$	\$
Bank/credit union loans:		
	\$	\$

	Husband	Wife
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Student loans:		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Money you owe: (not evidenced by a note)		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Judgments:		
	\$	\$
	\$	\$
	\$	\$
Other debts:		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Total Debts to be Paid by Each Person: (Excluding Real Estate mortgages and loans.)	Husband \$	Wife \$

Instructions: Joint Petition for Dissolution of Marriage Without Children

Where Do We File?

File in the County where you or your spouse live now. To file for Marriage Dissolution (Divorce) in Minnesota, you must have lived in Minnesota for at least the past 180 days.

Who Can Use this Form?

You can use this form if you and your spouse agree on everything and there are no children. This form may not address all of your needs or concerns. Real estate, pensions, businesses, and other types of property can be handled many different ways. There may be serious negative consequences and tax implications from your decisions on how to divide your property and handle the issues in your divorce.

These forms and instructions do not explain the many legal and financial issues involved in divorce and cannot warn you of specific problem. Please see an attorney if you have questions.

Do not use this form if:

- a) you and your spouse have children together, or
- b) the wife has given birth to a child since the marriage date, or
- c) wife is pregnant.

Filling out the forms:

- Print very neatly or the court may return your forms to you. Use black or dark blue ink.
- Answer every question completely. You must disclose all financial information so the Judge can determine if your proposed division of property and debt is “fair and equitable.” Include property/debts you own separately and together. For example, if you have a car and only your name is on the title, you still must list the car.

Information you will need:

- Pay stubs or tax return for you and your spouse
- Medical Insurance information
- Records of bank accounts and investments
- Pension information
- Legal description of any real estate and details about the mortgage and value of the real estate
- Descriptions of vehicles, their value and monthly payment amounts and total owed
- Information about credit card and other debt.

Do You Want to Change Your Name?

You and/or your spouse can ask for a legal change of name in the Joint Petition. If you want to change your name and you have been convicted of a felony, you must get the handout “Felon Name Change Instructions” and follow the steps in the handout.

Do You or Your Spouse Own Real Estate?

You must include real estate that you and your spouse own together, separately, or with other people. Use a separate real estate attachment for each parcel of real estate. Use the correct legal description – do not guess or abbreviate. There are many ways to handle real estate and many potential problems. You should talk to an attorney if you own real estate. For example, you may want the real estate awarded to one person with a lien in favor of the other person. An attorney can help you understand the legal consequences and necessary language.

Answering the Income Questions:

Questions 13 and 14 ask for monthly gross income (before taxes and deductions).

Do not guess at income. Look at your pay stub or tax return.

If you are paid monthly, enter the amount shown on your paycheck for gross income.

If you are paid twice a month, multiply gross income by 2 to get the monthly amount.

If you are paid every two weeks, multiply gross income by 2.17 to get the monthly amount.

If you are paid every week, multiply gross income by 4.33 to get the monthly amount.

If you are self-employed, or you work only part of the year, or your earnings vary, divide your yearly income by 12 to reach an average monthly income figure and write on the petition that you are averaging your income.

Modifying the Joint Petition

You may make changes to the Joint Petition to fit your situation, but do not omit any paragraphs. It is recommended that you consult with an attorney before making any changes to the Joint Petition.

What to Do After Completing the Forms

Sign and Notarize: Both wife and husband must sign the “Joint Petition, Agreement, and Judgment and Decree.” It is not necessary for both spouses to sign the document at the same time, but both signatures must be notarized. You may go to a notary public, or to the courthouse. A deputy court administrator can notarize your signature at the courthouse. Picture identification will be required.

File:

1. The completed “Joint Petition, Agreement, and Judgment and Decree,” the Asset Sheet, and the Debt Sheet. If there is real estate, also file the Real Estate Attachment(s).
2. “Form 11: Confidential Information” with names and social security numbers.

Pay: The District Court filing fee.

Wait: You are not divorced until the Judge signs the Decree and the Court Administrator “enters” the Decree. Wait to receive a letter from the Court telling you that you are divorced. You will not attend a court hearing unless the Judge decides a hearing is necessary.

If you have real estate, there are additional steps required to transfer the title, including filing the “Joint Petition, Agreement, and Judgment and Decree” and all Attachments in the Real Estate Records, after the Decree is signed by the Judge and entered by the Court

Administrator. In the alternative, you can file a Summary Real Estate Disposition Judgment and avoid putting all of your asset and debt information into the Real Estate Records. For more information about the Summary Real Estate Disposition Judgment, see Minnesota Statutes §518.191.

Questions?

If you have questions about the Joint Petition, you probably need to ask an attorney or accountant. Court staff can give you limited help with procedures. Only an attorney can give you legal advice.