

CX-89-1863  
STATE OF MINNESOTA  
IN SUPREME COURT

OFFICE OF  
APPELLATE COURTS

SEP 26 2008

FILED

In re:

Supreme Court Advisory Committee  
on General Rules of Practice

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

Final Report  
September 25, 2008

Hon. Elizabeth Anne Hayden  
Chair

Hon. Lorie Skjerven Gildea  
Liaison Justice

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Hon. Joseph T. Carter, Hastings  
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Erica Strohl, Minneapolis  
Hon. Robert D. Walker, Fairmont

Michael B. Johnson, Saint Paul  
Staff Attorney

David F. Herr, Minneapolis  
Reporter

## **Introduction**

After completing separate reports on cameras in the courtroom (March 2008) and the expedited child support process (June 2008), the Court's Advisory Committee on General Rules of Practice met once in August 2008 to consider various other issues that had arisen over the past year. The committee believes several further amendments to the general rules should be made by the Court.

## **Summary of Committee Recommendations**

The Committee's specific recommendations are briefly summarized as follows:

1. The rules should be amended to require early identification of the need for interpreter services.
2. The Court should adopt a new Rule 12 to require parties to serve and file papers by comparable means.
3. Rules 119.05 and 702 should be amended to remove the forms associated with those rules from the rules.
4. The Court should adopt new Rules 131 and 708 to implement procedures for conducting interactive television ("ITV") proceedings. As part of this amendment, the Court should also amend Rule 114 of the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act to lengthen the notice period for scheduling a hearing by electronic means, including ITV.

## **Effective Date**

The committee believes these rules should not be controversial, and could probably be considered fairly and fully with a public comment period and adopted to take effect on January 1, 2009.

## **Recommendations Not Requiring Rule Amendments**

In addition to the recommendations for rule amendments, which are discussed in detail later in this report, the committee addressed one other subject where it concluded that no rule amendment is warranted at this time.

**Gen. R. Prac. 808(b)(5) Jury Exemption.** The committee considered a suggestion that the age limit for opting out of jury service be reduced from age 70 to age 65. Although it is not uncommon for court administrators to receive requests by seniors under age 70 to be excused from jury service so that younger people can fill this role, the committee is concerned that reducing the opt-out age, coupled with recent changes expanding the exemption from repeated jury service from two to four years may negatively impact the ability of smaller jurisdictions to fill jury pools. Courts can and do address hardship situations through the current excuse and deferral provisions in Gen. R. Prac. 810.

## **Recommendations for Further Study**

The committee is undertaking two projects that will require further study by the committee.

1. **Rule 517 Payment of Judgment to Court Administrator.** The committee considered whether rule 517 should be modified to reflect actual practice in many courts which either simply require the debtor to pay the creditor directly, or require prior attempts to pay and an affidavit certifying the same before accepting payment. The committee felt that it was not in a position to make a recommendation without gathering further input from court staff and having further discussion.
2. **“Local Rule” requiring transcription of audio/visual recordings.** The committee considered concerns expressed about a Ninth Judicial District Policy requiring transcription of audio/visual recordings submitted as

exhibits. There exists concern that this is a local rule requiring Supreme Court approval. The committee believes that this subject should be considered for a statewide rule but felt that it was not in a position to make a recommendation without gathering further input and having further discussion.

### **Style of Report**

The specific recommendation is reprinted in traditional legislative format, with new wording underscored and deleted words ~~struck through~~.

Respectfully submitted,

MINNESOTA SUPREME COURT ADVISORY  
COMMITTEE ON GENERAL RULES OF  
PRACTICE

**Recommendation 1: The Rules Should be Amended to Require Early Identification of the Need for Interpreter Services.**

**Introduction**

The committee considered a recommendation from the Supreme Court Racial Fairness Committee and the Second Judicial District’s Equal Justice Committee relating to the use of interpreters. The recommendation from those committees has been modified slightly by this advisory committee, but essentially would amend the rules to provide in several places that the potential need for interpreter services be identified formally and earlier in the litigation process. The committee recommends that Minn. Gen. R. Prac. 8 (Interpreters) be amended to include a general provision for early notice, and that several other rules and forms be modified to incorporate this notice requirement:

Rule 111.02 & Form 111.02	Require disclosure of information on interpreter needs in Informational Statement
Rule 111.03	Require inclusion of information on interpreter needs in Scheduling Order
Rule 112.02 & Form 112.01	Require disclosure of information on interpreter needs in Joint Statement of the Case
Minnesota Civil Trialbook § 5	Update this provision on pre-trial conferences to specify that interpreter information be required at a pre-trial conference.
Minnesota Civil Trialbook § 11	Update this provision on interpreters to include reference to the early-disclosure requirements implemented by these amendments.

These amendments will not unduly burden litigants (they require virtually no attention except in cases where interpreters will be involved) but will significantly improve the process of planning for interpreter needs by court administrators.

The committee also recommends that the rule include an express requirement that the parties advise the court when it is clear that an interpreter will no longer be required. The purpose of this requirement is to permit the court to avoid incurring unnecessary interpreter costs.

### **Specific Recommendations**

1. Rule 8 should be amended as follows:

#### **RULE 8. INTERPRETERS**

\* \* \*

#### **Rule 8.13. Requirement for Notice of Anticipated Need for Interpreter**

In order to permit the court to make arrangements for the availability of required interpreter services, parties shall in the Informational Statement or Joint Statement of the Case, and as may otherwise be required by court rule or order, advise the court of that need in advance of the hearing or trial where services are required.

When it becomes apparent that previously-requested interpreter services will not be required, the parties must advise the court.

#### **Advisory Committee Comment—2008 Amendment**

Making a qualified interpreter available when needed in court often requires difficult prearrangement. Rule 8.13 is a simple rule drawing the attention of litigants to the likelihood they will encounter specific court rules or orders requiring identification of interpreter needs in advance of the need. See amendments to Rules 111.02, 111.03, 112.02, Forms 111.02 & 112.01, and Minnesota Civil Trialbook sections 5 & 11.

The second paragraph of the rule contains an obvious corollary: when it becomes clear that interpreter services will no longer be required, notice must be given to permit the court to avoid the expense that would otherwise be incurred. This notice would be required if a trial or hearing were obviated by settlement, and the requirement of notice is similar to that required by MINN. GEN. R. PRAC. 115.10 for the settlement of a motion, which would obviate a hearing and the court's preparation for it.

2. Rule 111 should be amended as follows:

27 **RULE 111. SCHEDULING OF CASES**

28  
29 **Rule 111.02. The Party's Informational Statement**

30  
31 Within sixty days after an action has been filed, each party shall submit, on a  
32 form to be available from the court (see form 111.02 appended to these rules), the  
33 information needed by the court to manage and schedule the case. The information  
34 provided shall include:

- 35 (a) The status of service of the action;
- 36 (b) Whether the statement is jointly prepared;
- 37 (c) Description of case;
- 38 (d) Whether a jury trial is requested or waived;
- 39 (e) Discovery contemplated and estimated completion date;
- 40 (f) Whether assignment to an expedited, standard, or complex track is  
41 requested;
- 42 (g) The estimated trial time;
- 43 (h) Any proposals for adding additional parties;
- 44 (i) Other pertinent or unusual information that may affect the scheduling or  
45 completion of pretrial proceedings;
- 46 (j) Recommended alternative dispute resolution process, the timing of the  
47 process, the identity of the neutral selected by the parties or, if the neutral has not yet  
48 been selected, the deadline for selection of the neutral. If ADR is believed to be  
49 inappropriate, a description of the reasons supporting this conclusion;
- 50 (k) A proposal for establishing any of the deadlines or dates to be included in a  
51 scheduling order pursuant to Minn. Gen. R. Prac. 111.03-; and
- 52 (l) Identification of interpreter services (specifying language and, if known,  
53 particular dialect) any party anticipates will be required for any witness or party.

55 **Rule 111.03. Scheduling Order**  
56

57 (a) **When Issued.** No sooner than sixty days and no longer than ninety days  
58 after an action has been filed, the court shall enter its scheduling order. The court  
59 may issue the order after either a telephone or in-court conference, or without a  
60 conference or hearing if none is needed.

61 (b) **Contents.** The scheduling order shall provide for alternative dispute  
62 resolution as required by Rule 114.04(c) and shall establish a date for completion of  
63 discovery. The order may also establish any of the following:

- 64 (1) Deadlines for joining additional parties, whether by amendment  
65 or third-party practice;
- 66 (2) Deadlines for bringing non-dispositive or dispositive motions;
- 67 (3) Deadlines or specific dates for submitting particular issues to the  
68 court for consideration;
- 69 (4) A deadline for completing any independent physical, mental or  
70 blood examination pursuant to Minn. R. Civ. P. 35;
- 71 (5) A date for a formal discovery conference pursuant to Minn. R.  
72 Civ. P. 26.06, a pretrial conference or conferences pursuant to  
73 Minn. R. Civ. P. 16, or a further scheduling conference.
- 74 (6) Deadlines for filing any pre-trial submissions, including  
75 proposed instructions, verdicts, or findings of fact, witness lists,  
76 exhibits lists, statements of the case or any similar documents;
- 77 (7) Whether the case is a jury trial, or court trial if a jury has been  
78 waived by all parties; and
- 79 (8) Identification of interpreter services (specifying language and, if  
80 known, particular dialect) any party anticipates will be required  
81 for any witness or party;
- 82 (~~8~~9) A date for submission of a Joint Statement of the Case pursuant to  
83 Minn. Gen. R. Prac. 112; or

84 (910) A trial date.

85

86

**Advisory Committee Comment—2008 Amendment**

87

Rules 111.02(l) and 111.03(b)(8) are new provisions, adopted as part of amendments designed to foster earlier gathering of information about the potential need for interpreter services in a case, either for witnesses or for a party. See MINN. GEN. R. PRAC 8.13.

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3. Rule 112 should be amended as follows:

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**RULE 112. JOINT STATEMENT OF THE CASE**

92

93

\* \* \*

94

**Rule 112.02. Contents**

95

96

The Joint Statement of the Case shall contain the following information to the extent applicable:

97

98

(a) a statement that all parties have been served, that the case is at issue, and that all parties have joined in the filing of the Statement of the Case.

99

100

(b) an estimated trial time.

101

(c) whether a jury trial has been requested, and if so, by which party.

102

(d) counsels' opinion whether the case should be handled as an expedited, standard, or complex case (determination to be made by the court).

103

104

(e) a concise statement of the case indicating the facts that Plaintiff(s) intend to prove and the legal basis for all claims.

105

106

(f) a concise statement of the case indicating the facts that Defendant(s) intend to prove and the legal basis for all defenses and counterclaims.

107

108

(g) names and addresses of all witnesses known to the lawyer or client who may be called at the trial by each party, including expert witnesses and the particular area of expertise each expert will be addressing. If any witness is or party is likely to require interpreter services, that fact and the nature of the required services (specifying language and, if known, particular dialect) shall be provided.

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**Advisory Committee Comment—2008 Amendment**

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Rule 112.02 is amended to include a provisions designed to foster earlier gathering of information about the potential need for interpreter services in a case, either for witnesses or for a party. *See* MINN. GEN. R. PRAC 8.13.

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117

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

119  
120 State of Minnesota

District Court

121  
122 COUNTY

121  
122 JUDICIAL DISTRICT CASE NO.

123  
124 Case Type: \_\_\_\_\_

125  
126 \_\_\_\_\_,  
127 Plaintiff

128 and

**INFORMATIONAL STATEMENT FORM**

129  
130 \_\_\_\_\_,  
131 Defendant

- 132
- 133 1. All parties (have) (have not) been served with process.
- 134 2. All parties (have) (have not) joined in the filing of this form.
- 135 3. Brief description of the case: \_\_\_\_\_
- 136 \_\_\_\_\_
- 137 \_\_\_\_\_
- 138 4. It is estimated that the discovery specified below can be completed within \_\_\_\_ months from
- 139 the date of this form. (Check all that apply, and supply estimates where indicated.)
  - 140 a. Factual Depositions No \_\_\_\_ Yes \_\_\_\_, estimated number: \_\_\_\_\_
  - 141 b. Medical Evaluations No \_\_\_\_ Yes \_\_\_\_, estimated number: \_\_\_\_\_
  - 142 c. Experts Subject to Discovery No \_\_\_\_ Yes \_\_\_\_, estimated number: \_\_\_\_\_
- 143 5. Assignment as an \_\_\_\_ expedited \_\_\_\_ standard \_\_\_\_ complex case is requested. (If not
- 144 standard case assignment, include brief statement setting forth the reasons for the request.)
- 145 \_\_\_\_\_
- 146 \_\_\_\_\_
- 147 6. The dates and deadlines specified below are suggested.
  - 148 a. \_\_\_\_\_ Deadline for joining additional parties, whether by amendment or third
  - 149 party practice.
  - 150 b. \_\_\_\_\_ Deadline for bringing non-dispositive motions.
  - 151 c. \_\_\_\_\_ Deadline for bringing dispositive motions.
  - 152 d. \_\_\_\_\_ Deadline for submitting \_\_\_\_\_ to the court.
  - 153 (specify issue)
  - 154 e. \_\_\_\_\_ Deadline for completing independent physical examination
  - 155 pursuant to Minn.R.Civ.P. 35.
  - 156 f. \_\_\_\_\_ Date for formal discovery conference pursuant to Minn. R. Civ. P. 26.06.
  - 157 g. \_\_\_\_\_ Date for pretrial conference pursuant to Minn. R. Civ. P. 16.
  - 158 h. \_\_\_\_\_ Date for scheduling conference.
  - 159 i. \_\_\_\_\_ Date for submission of a Joint Statement of the Case pursuant to
  - 160 Minn. Gen. R. Prac. 112.
  - 161 j. \_\_\_\_\_ Trial Date.
  - 162 k. \_\_\_\_\_ Deadline for filing (proposed instructions), (verdicts), (findings of fact),
  - 163 (witness list), (exhibit list).
  - 164 l. \_\_\_\_\_ Deadline for \_\_\_\_\_. (specify)

- 165 7. Estimated trial time: \_\_\_\_\_ days \_\_\_\_\_ hours (estimates less than a day must be  
 166 stated in hours).
- 167 8. A jury trial is: ( ) waived by consent of \_\_\_\_\_ pursuant to R. Civ. P. 38.02.  
 168 (specify party)  
 169 ( ) requested by \_\_\_\_\_. (NOTE: Applicable fee must be enclosed.)  
 170 (specify party)
- 171 9. a. Meeting: Counsel for the parties met on \_\_\_\_\_ to discuss case  
 172 management issues. (Date)
- 173 b. ADR PROCESS (Check one):  
 174  Counsel agree that ADR is appropriate and choose the following:  
 175  Mediation  
 176  Arbitration (non-binding)  
 177  Arbitration (binding)  
 178  Med-Arb  
 179  Early Neutral Evaluation  
 180  Moderated Settlement Conference  
 181  Mini-Trial  
 182  Summary Jury Trial  
 183  Consensual Special Magistrate  
 184  Impartial Fact Finder  
 185  Other (describe) \_\_\_\_\_  
 186 \_\_\_\_\_
- 187  Counsel agree that ADR is appropriate but request that the Court select the process.  
 188  Counsel agree that ADR is NOT appropriate because:  
 189  the case implicates the federal or state constitution.  
 190  other (explain with particularity) \_\_\_\_\_  
 191 \_\_\_\_\_  
 192  domestic violence has occurred between the parties.
- 193 c. PROVIDER (Check one):  
 194  The parties have selected the following ADR neutral:  
 195 \_\_\_\_\_  
 196  The parties cannot agree on an ADR neutral and request the Court to appoint one  
 197  The parties agreed to select an ADR neutral on or before \_\_\_\_\_  
 198 \_\_\_\_\_.
- 199 d. DEADLINE: The parties recommend that the ADR process be completed by \_\_\_\_\_.  
 200 (Date)

201 10 Please identify any party or witness who will require interpreter services, and describe the  
 202 services (specifying language and, if known, particular dialect) needed.

203 \_\_\_\_\_  
 204 \_\_\_\_\_  
 205 \_\_\_\_\_

206 101. Please list any additional information which might be helpful to the court when scheduling this  
 207 matter.

208 \_\_\_\_\_  
 209 \_\_\_\_\_  
 210 \_\_\_\_\_

211  
 212 Signed: \_\_\_\_\_ Signed: \_\_\_\_\_  
 213 Lawyer for (Plaintiff) (Defendant) Lawyer for (Plaintiff) (Defendant)

214 Attorney Reg. #: \_\_\_\_\_ Attorney Reg. #: \_\_\_\_\_  
 215 Firm: \_\_\_\_\_ Firm: \_\_\_\_\_  
 216 Address: \_\_\_\_\_ Address: \_\_\_\_\_  
 217 Telephone: \_\_\_\_\_ Telephone: \_\_\_\_\_  
 218 Date: \_\_\_\_\_ Date: \_\_\_\_\_  
 219

220 **FORM 112.01. JOINT STATEMENT OF THE CASE**

221 \_\_\_\_\_  
 222 State of Minnesota District Court

223 COUNTY  
 224  
 225

223 JUDICIAL DISTRICT CASE NO.  
 224  
 225

226 Case Type: \_\_\_\_\_  
 227

228 \_\_\_\_\_,  
 229 Plaintiff

230 and

**JOINT STATEMENT OF THE CASE**

231 \_\_\_\_\_,  
 232  
 233 Defendant

- 234
- 235 1. All parties have been served with process. The case is at issue and all parties have joined in  
 236 the filing of this Joint Statement of the Case.
  - 237 2. Estimated trial time: \_\_\_ days \_\_\_ hours (estimates less than a day must be stated in hours).
  - 238 3. Jury is requested by the \_\_\_ plaintiff \_\_\_ defendant. [If this is a change from a court to a jury  
 239 request, then a \$30 fee must be paid when filing this document.]
  - 240 4. Concise statement of the case including facts plaintiff(s) intend to prove and legal basis for claims:  
 241 \_\_\_\_\_  
 242 \_\_\_\_\_  
 243 \_\_\_\_\_
  - 244 5. Concise statement of the case indicating facts defendant(s) intend to prove and legal basis for  
 245 defenses and counterclaim:  
 246 \_\_\_\_\_  
 247 \_\_\_\_\_  
 248 \_\_\_\_\_
  - 249 6. List the names and addresses of witnesses known to either party that either party may call.  
 250 Indicate the party who expects to call the witness and whether the party intends to qualify that  
 251 witness as an expert. (Attach additional sheets if necessary.)

252 Party	Name/Addresses 253 of Witnesses	Please Indicate if Expert Witness
254 _____	_____	_____ Yes
255 _____	_____	_____ Yes
256 _____	_____	_____ Yes

257 7. Identify any party or witness who will require interpreter services, and describe the services  
258 needed.

259 \_\_\_\_\_  
260 \_\_\_\_\_

261  
262 ~~78.~~ In claims involving personal injury, attach a statement by each claimant, whether by  
263 complaint or counterclaim, setting forth a detailed description of claimed injuries and an  
264 itemized list of special damages as required by the rule. Indicate whether parties will  
265 exchange medical reports.

266 ~~89.~~ In claims involving vehicle accidents, attach a statement describing the vehicles with  
267 information as to ownership and the name of insurance carriers, if any.

268 [Signature Blocks]

269

270 (If more space is needed to add additional information or parties, attach a separate sheet typed in the  
271 same format.)

272 The undersigned counsel have met and conferred this \_\_\_\_ day of \_\_\_\_\_ and certify the  
273 foregoing is true and correct.

274

275

276

\_\_\_\_\_  
Signature

277

278

\_\_\_\_\_  
Signature

279

280

\_\_\_\_\_  
Signature

281

282

\_\_\_\_\_  
Signature

4. Minnesota Civil Trialbook sections 5 & 11 should be amended as follows:

283

## PART H. MINNESOTA CIVIL TRIALBOOK

284

### Section 5. Pre-Trial Conferences

285

\* \* \*

286

(d) **Pre-trial Chambers Conferences.** At an informal chambers conference before trial the trial court shall:

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288

(1) determine whether settlement possibilities have been exhausted;

289

(2) determine whether all pleadings have been filed;

- 290 (3) ascertain the relevance to each party of each cause of action;  
291 and,  
292 (4) with a view to ascertaining and reducing the issues to be tried,  
293 shall inquire:
- 294 (i) whether the issues in the case may be narrowed or  
295 modified by stipulations or motions;
  - 296 (ii) whether dismissal of any of the causes of actions or  
297 parties will be requested;
  - 298 (iii) whether stipulations may be reached as to those facts  
299 about which there is no substantial controversy;
  - 300 (iv) whether stipulations may be reached for waiver of  
301 foundation and other objections regarding exhibits, tests,  
302 or experiments;
  - 303 (v) whether there are any requests for producing evidence out  
304 of order;
  - 305 (vi) whether motions in limine to exclude or admit specified  
306 evidence or bar reference thereto will be requested; and
  - 307 (vii) whether there are any unusual or critical legal or  
308 evidentiary issues anticipated;
- 309 (5) direct the parties to disclose the number and names of witnesses  
310 they anticipate calling, and to make good faith estimates as to the  
311 length of testimony and arguments;
- 312 (6) direct the parties to disclose whether any party or witness  
313 requires interpreter services and, if so, the nature of the  
314 interpreter services (specifying language and, if known,  
315 particular dialect) required;
- 316 ~~(6)~~ inquire whether the number of experts or other witnesses may be  
317 reduced;



349 need for an interpreter and interpreter services (specifying language and, if known,  
350 particular dialect) expected to be required. Parties shall not use a relative or friend as  
351 an interpreter in a contested proceeding, except as approved by the court.

352

353

**Advisory Committee Comment—2008 Amendment**

354

This section is amended to incorporate the amendments to Rules 111.02(l),  
111.03(b)(8), and 112.02(g), requiring earlier disclosure of information about the  
355 potential need for interpreter services in a case, either for witnesses or for a party.  
356 *See* MINN. GEN. R. PRAC 8.13.  
357

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**Recommendation 2: The Court Should Adopt a New Rule 12 to Require Parties to Serve and File Papers by Comparable Means.**

**Introduction**

The committee has considered several times over its existence the question of whether the rules should include a provision mandating service by the same means for filing of a document. The concern arises from what is universally viewed—except possibly by those engaging in it—as a “sharp” practice: hand-delivery of a paper to the judge and mailing a copy to opposing counsel. The practice is not forbidden by any rule, and in some cases lawyers manage to serve and file in ways that papers arrive days apart.

The committee does not believe the rule should mandate precise parity—service need not be by the same means as filing, but it should allow for essentially simultaneous receipt.

**Specific Recommendations**

A new Rule 12 should be adopted as follows:

358 **Rule 12. Requirement for Comparable Means of Service**

359  
360 In all cases, a party serving a paper on a party and filing it with the court must  
361 select comparable means of service and filing so that the papers are delivered  
362 substantially contemporaneously. This rule does not apply to service of a summons or  
363 a subpoena.

364 In emergency situations, where compliance with this rule is not possible, the  
365 facts of attempted compliance must be provided by affidavit.

366  
367 **Advisory Committee Comment—2008 Amendment**

368 Rule 12 is a new rule, recommended to codify a longstanding practice of  
369 professional courtesy: that papers be served and filed by comparable means. The

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rule does not require that the same means be used, but if hand delivery to the court is chosen for filing, then either hand delivery, overnight courier sent the day before, or facsimile transmission to other parties must be used. The measure of compliance is approximate simultaneity; the purpose is to discourage gameplaying over service. Fairness requires that service and filing occur at about the same time; delivering papers immediately to the court and then serving them leisurely upon counsel is not justified and in some cases is not fair.

**Recommendation 3: Rules 119.05 and 702 Should Be Amended to Remove the Forms Associated With Those Rules From the Rules.**

**Introduction**

The committee has recommended that many of the forms contained in the general rules be moved out of the rules so they can be amended administratively and without requiring review by the committee and formal amendment by the Court. The committee believes Rules 119.05 and 702 should be amended to remove Forms 119.05 and 702 from the rules. The forms will in the future be maintained by the State Court Administrator. It is pointed out for the benefit of the State Court Administrator that the current form 119.05 contains a typographical error that should be corrected before the form is published. Immediately beneath the caption it states, "TO: \_\_\_\_\_, JUDGMENT DEBTOR:" It should read "TO: \_\_\_\_\_, DEFENDANT" because judgment has not been entered at the time the form is served.

**Specific Recommendations**

1. Rule 119 should be amended as follows:

**RULE 119. APPLICATIONS FOR ATTORNEY FEES**

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\* \* \*

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**Rule 119.05. Attorney Fees in Default Proceedings**

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(a) A party proceeding by default and seeking an award of attorney fees that has established a basis for the award under applicable law, including parties seeking to enforce a confession of judgment, may obtain approval of the fees administratively without a motion hearing, provided that:

- 386 (1) the fees requested do not exceed fifteen percent (15%) of the  
387 principal balance owing as requested in that party's pleadings, up  
388 to a maximum of \$3,000.00. Such a party may seek a minimum  
389 of \$250.00; and
- 390 (2) the requesting party's pleading includes a claim for attorney fees  
391 in an amount greater than or equal to the amount sought upon  
392 default; and
- 393 (3) the defaulting party, after default has occurred, has been provided  
394 notice of the right to request a hearing under section (c) of this  
395 rule, a form for making such a request substantially similar to  
396 Form 119.05 as published by the state court administrator, and  
397 the affidavit required under Rule 119.02.

398 \* \* \*

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

408 \* \* \*

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**Advisory Committee Comment—2008 Amendment**  
Rule 119.05 is amended to remove Form 119.05 from the rules, and to permit the maintenance and publication of the form by the state court administrator. The form, together with other court forms, can be found at <http://www.mncourts.gov/>.

415 [Form 119.05 is to be deleted from the Rules and published by the State Court  
416 Administrator]

2. Rule 702 should be amended as follows:

417 **RULE 702. BAIL**

418 \* \* \*  
419

420 **(d) Posting Bonds.** Before any person is released on bond, the bond must be  
421 approved by a judge after submission to the prosecuting lawyer for approval of form  
422 and execution and filed with the court administrator during business hours or  
423 thereafter with the custodian of the jail. In cases where bail has been set by the court  
424 and the defendant has provided a bail bond with corporate surety, approval by a judge  
425 is unnecessary if the bond conforms to Form 702 as published by the state court  
426 administrator.

427 \* \* \*

428  
429 **Advisory Committee Comment—2008 Amendment**

430 Rule 702(d) is amended to remove Form 702 from the rules, and to permit the  
431 maintenance and publication of the form by the state court administrator. The form,  
432 together with other court forms, can be found at <http://www.mncourts.gov/>.  
433

434 [Form 702 is to be deleted from the Rules and published by the State Court  
435 Administrator]

**Recommendation 4: The Court Should Adopt New Rules 131 and 708 to Implement Procedures for Conducting Interactive Television (“ITV”) Proceedings.**

**Introduction**

The committee considered the drafting of an administrative rule for implementation of interactive television (“ITV”) in criminal cases. The committee undertook this review at the request of the Court. *See Order Promulgating Amendments to the Rules of Criminal Procedure Relating to Use of ITV in Criminal Matters*, No. C1-84-2137 (Minn. Nov. 19, 2007). Interim ITV Administrative Procedures were adopted by the State Court Administrator on March 25, 2008. *See MINNESOTA JUDICIAL BRANCH POLICY/PROCEDURES*, Policy No. 5.06(c) (March 25, 2008). Earlier ITV protocols were adopted during pilot project implementation of ITV.

The committee recommends that a new Rule 131 be adopted to deal with ITV in civil cases, and a companion Rule 708 to adopt those procedures, as well as the procedures in the criminal rules, for criminal cases. If these amendments are adopted, it is appropriate for the Court to amend Rule 114 of the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act to conform the time periods for requesting an ITV or other electronic hearing under the rules.

**Specific Recommendations**

1. Rule 131 should be adopted as follows:  
(Because this rule is entirely new, no underlining is included.)



467 shall be substantially in the form set forth in the Stipulation and Approval form  
468 appended to these rules. The parties are responsible for making arrangements to use  
469 any site that is outside the control of the court in the venue county, for providing the  
470 necessary contact information to the court administrator, and for ensuring the  
471 compatibility of the equipment.

472 **(d) Use of ITV Upon Motion.**

473 (1) **Request.** Any party may, by motion, request the use of ITV for  
474 a hearing or proceeding in accordance with this rule. No motion  
475 for use of ITV shall be heard until the moving party serves a  
476 copy of the motion on the opposing counsel and files the original  
477 with the court administrator at least seven (7) days prior to the  
478 scheduled hearing or proceeding for which ITV use is requested.  
479 The moving party may, ex parte, contact the court for an  
480 expedited hearing date on the motion for use of ITV and for  
481 waiver of the usual notice of hearing. The moving party is  
482 responsible under Rule 131.02(c) for making arrangements to use  
483 any site that is outside the control of the court in the venue  
484 county, for providing the necessary contact information to the  
485 court administrator, and for ensuring the compatibility of the  
486 equipment. The motion shall include, as an attachment, a notice  
487 advising the other parties of their right to object to use of ITV,  
488 the consequences of failing to timely file an objection, the duty to  
489 exchange information under Rule 131.04, and the prohibition on  
490 recording in Rule 131.06(i). A sample notice is set forth as an  
491 appendix to these rules.

492 (2) **Objection.** Any party objecting to a motion for use of ITV may  
493 file and serve a response to the motion 48 hours prior to the  
494 hearing on the motion for use of ITV.

- 495 (3) **Burden of Proof.** The moving party must establish good cause  
496 for use of ITV by a preponderance of the evidence.
- 497 (4) **Good Cause.** The Court shall consider the following factors to  
498 determine “good cause”:
- 499 (i) Whether a timely objection has been made;
  - 500 (ii) Whether any undue surprise or prejudice would result;
  - 501 (iii) The convenience of the parties, counsel, and the court;
  - 502 (iv) The cost and time savings;
  - 503 (v) The importance and complexity of the proceeding;
  - 504 (vi) Whether the proponent has been unable, after due  
505 diligence, to procure the physical presence of a witness;
  - 506 (vii) The convenience to the parties and the proposed witness,  
507 and the cost of producing the witness in relation to the  
508 importance of the offered testimony;
  - 509 (viii) Whether the procedure would allow effective cross-  
510 examination, especially where documents and exhibits  
511 available to the witness may not be available to counsel;
  - 512 (ix) Whether the surroundings maintain the solemnity and  
513 integrity of the proceedings and thereby impress upon the  
514 witness the duty to testify truthfully;
  - 515 (x) Whether the witness is presently in prison or incarcerated;  
516 and,
  - 517 (xi) Such other factors as the court may, in each individual  
518 case, determine to be relevant.
- 519 (5) **Emergency Circumstances.** The court may shorten the time  
520 periods provided in this rule 131.02(d) upon a showing of good  
521 cause.

522 (6) **Determination.** If the use of ITV is thereafter allowed and  
523 ordered by the court, the hearing shall proceed, by ITV, in  
524 accordance with the provisions of this rule. If the court  
525 determines that good cause for the use of ITV has not been  
526 established, the hearing or proceeding shall be heard as provided  
527 by the Rules of Civil Procedure and General Rules of Practice.

528 **Rule 131.03. Costs and Arrangements; Certification**

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530 (a) **Costs.** The party or parties, other than the court, requesting use of ITV for  
531 any hearing or proceeding shall be responsible for any additional use or other fees  
532 over and above those normally incurred by the venue county in connecting from one  
533 court site to another court site within the district or collaboration area.

534 (b) **Arrangements.** If the court on its own initiative orders ITV, the court  
535 shall, through the court administrator where the case is venued, establish and make  
536 arrangements to carry out the ITV procedures required in order for the court to hear  
537 the case as an ITV hearing or proceeding. In all other cases it will be the  
538 responsibility of the party requesting the use of ITV to contact the court administrator  
539 where the case is venued who shall, working with the judge assigned, establish a  
540 hearing date and time so that the case may be scheduled as an ITV hearing or  
541 proceeding. The court and counsel shall use reasonable efforts to confer with one  
542 another in scheduling ITV hearings or proceedings so as not to cause, delay or create  
543 scheduling conflicts.

544 (c) **Service.** The moving party shall have the responsibility of preparing,  
545 serving and filing the motion and notice of motion papers as required by this rule.

546 (d) **Certification.** By signing a stipulation or motion for use of ITV, a person  
547 certifies that the use of ITV will be in accordance with the provisions of this rule,  
548 including, without limitation, the requirement in Rule 131.06(i) that no recording shall  
549 be made of any ITV proceeding except the recording made as the official court  
550 record.

551 **Rule 131.04. Exchange of information.**

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553 Whenever ITV is to be used to conduct a hearing or proceeding, evidentiary  
554 exhibits shall be exchanged with all other parties and submitted to the court, as  
555 appropriate, prior to the commencement of the hearing or proceeding.

556 **Rule 131.05. Location of Participants.**

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558 During the ITV hearing:

559 (a) The judge may be at any terminal site.

560 (b) The court clerk shall be in the venue county unless otherwise authorized by  
561 the presiding judge.

562 (c) Except as otherwise provided in rule 131.05(d) regarding commitment  
563 proceedings, counsel for the parties shall be present at the site from which the party  
564 they represent will participate in the hearing, unless the court approves another  
565 location prior to the hearing, and witnesses and other interested parties may be located  
566 at any terminal site that will allow satisfactory video and audio reception at all other  
567 sites.

568 (d) In commitment proceedings, the respondent's attorney shall be present at  
569 the ITV site from which the respondent will participate in the proceedings.

570 **Rule 131.06. Proceedings.**

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572 In any proceeding conducted by ITV under this rule:

573 (a) Parties entitled to be heard shall be given prior notice of the manner and  
574 time of the hearing or proceeding.

575 (b) Witnesses may testify by ITV at all hearings, including contested matters.

576 (c) Regardless of the physical location of any party to the ITV hearing or  
577 proceeding, any waiver, stipulation, motion, objection, decision, order or any other  
578 actions taken by the court or a party has the same effect as if done in person. Court  
579 orders that bear the presiding judge's signature may be transmitted electronically or  
580 via facsimile machine to the various ITV sites for the purpose of service.

581 (d) The court administrator of the venue county will keep court minutes and  
582 maintain court records as if the proceeding were heard in person.

583 (e) All proceedings held by ITV will be governed by the Minnesota Rules of  
584 Civil Procedure, the General Rules of Practice and state law, except as herein  
585 provided. Courtroom decorum during ITV hearings will conform to the extent  
586 possible to that required during traditional court proceedings.

587 (f) A sheriff, sheriff's deputy, bailiff or other licensed peace officer shall be  
588 present at each ITV site for the purpose of maintaining order, as the court deems  
589 necessary.

590 (g) The court shall ensure that each party has adequate opportunity to speak  
591 privately with counsel, including, where appropriate, suspension of the audio  
592 transmission and recording or allowing counsel to leave the conference table to  
593 communicate with the client in private.

594 (h) Judges may continue any hearing that cannot proceed due to ITV  
595 equipment problems or failure, unless other arrangements to proceed with the hearing  
596 are agreed upon by all parties.

597 (i) No recording shall be made of any ITV proceeding except the recording  
598 made as the official court record. This Rule 131 does not supersede the provisions of  
599 the Minnesota Rules of Public Access to Records of the Judicial Branch.

600 **Rule 131.07. Administrative Procedures.**

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602 The following administrative procedures are applicable to all ITV proceedings:

603 (a) **Off-Camera Presence.** During a hearing conducted by ITV, all off-  
604 camera persons at any participating ITV terminal site must be identified for the  
605 record. This shall not apply to members of the public located in general public  
606 seating areas of any courtroom.

607 (b) **Court Administrator Duties.** The Court Administrator for each county  
608 shall be responsible for the following:

- 609 (1) Ensure that the ITV equipment is ready and functioning properly  
610 in advance of any ITV hearing, so that there will be no  
611 interference with the punctual commencement of a hearing.
- 612 (2) Provide participants an opportunity to become familiar with use  
613 of the ITV equipment and courtroom procedure prior to  
614 commencement of the hearing.
- 615 (3) Set ITV system configuration as designated by the presiding  
616 judge. The presiding judge shall consider the objections or  
617 concerns of any party.
- 618 (4) Monitor audio and video quality, making adjustments and  
619 providing technical assistance throughout the hearing as  
620 necessary.
- 621 (5) Ensure that any court documents or exhibits that the judge will  
622 require prior to or during the course of the hearing are mailed or  
623 faxed to the judge prior to commencement of the hearing.
- 624 (6) Be familiar with problem management procedures, including  
625 steps to be taken in performing initial problem determination,  
626 identity and location of individual(s) who should be contacted if  
627 initial problem/resolution attempts fail, and service call  
628 placement procedures.

629 (c) **Technical Standards.** The following technical standards should be  
630 followed:

- 631 (1) To optimize picture clarity, the room should have diffused  
632 lighting and window shades to block external light.
- 633 (2) To optimize viewing, monitors should be placed in a darkened  
634 area of the room and be of sufficient size and number to allow  
635 convenient viewing by all participants.

- 636 (3) Cameras and microphones should be sufficient in number to  
637 allow video and audio coverage of all participants, prevent  
638 crowding of participants, facilitate security, and protect  
639 confidential communications.
- 640 (4) Audio and visual must be synchronized and undistorted.
- 641 (5) All hearing participants should speak directly into their  
642 microphones.
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644 **Advisory Committee Comments—2008 Amendment**

645 In October 1999 the Supreme Court informally approved the use of ITV in  
646 civil cases but did not adopt any specific rules. The addition of Rule 131 in 2008 is  
647 intended to provide a uniform procedure permitting the use of interactive video  
648 teleconferencing (ITV) to conduct hearings and admit oral testimony in civil cases.  
649 It is based on protocols developed and implemented for a pilot project in the Ninth  
650 Judicial District and later tweaked by a subcommittee of the Court's former  
651 Technology Planning Committee. The success of the pilot project is reported in  
652 NATIONAL CENTER FOR STATE COURTS, COURT SERVICES DIVISION, ASSESSMENT OF  
653 THE INTERACTIVE TELEVISION PROGRAM IN THE NINTH JUDICIAL DISTRICT OF  
654 MINNESOTA (Sept. 1999).

655 Rule 131.02 identifies the situations in which the district court may authorize  
656 the use of ITV by order: upon the court's own initiative, upon stipulation by the  
657 parties, or upon a showing of good cause. The court as part of its overall case  
658 management practice initiated the bulk of the orders in the Ninth Judicial District  
659 pilot project. It is anticipated that use of ITV will vary by district, depending on  
660 factors such as geographical size and the nature of the cases.

661 Rule 131.02(b) recognizes that when a court orders the use of ITV on its own  
662 initiative, the court must notify the parties of the use of ITV. Notices are to be in  
663 accordance with rules of civil procedure and the general rules of practice. Once an  
664 order is filed, MINN. R. CIV. P. 77.04 requires the court administrator to serve notice  
665 of the order immediately by mail, and MINN. GEN. R. PRAC. 1.03 requires that  
666 service be made on a party's attorney if represented, otherwise on the party directly.  
667 The notice of ITV use may also be incorporated into a scheduling order issued under  
668 MINN. GEN. R. PRAC. 111.03. Regardless of the precise mechanism, the notice of  
669 ITV use must include the information required in Rule 131.02(b). A sample notice is  
670 set forth for publication by the state court administrator.

671 Parties may, subject to court approval, stipulate to the use of ITV under rule  
672 131.02(c). Upon reaching a stipulation, the parties must contact the court  
673 administrator as soon as possible to obtain a date and time for the ITV hearing.  
674 Failure to provide adequate lead time may result in rejection of the stipulation. The  
675 parties are responsible for making arrangements to use any site that is outside the  
676 control of the court in the venue county. Parties should be aware that use of court  
677 and other governmental terminal sites might be subject to collaboration agreements  
678 entered into between courts and other government agencies. This may limit the  
679 availability of, or control the costs of using or accessing certain terminal sites,  
680 particularly those outside the county or district where the action is venued or outside  
681 the state's dedicated MNET network. Under Rule 131.03 parties requesting use of  
682 ITV for any hearing or proceeding are responsible for any additional use or other  
683 fees over and above those normally incurred by the venue county in connecting from  
684 one collaboration site to another. Parties are also responsible for ensuring  
685 compatibility of equipment for sites outside the control of the venue county.

686 Finally, a written, signed stipulation in the format substantially similar to the  
687 form appended to the rule must be filed with the court no later than twenty-four (24)  
688 hours prior to the hearing. By signing the stipulation the parties certify that they will

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follow the protocol, including, without limitation, the requirement in Rule 131.06(i) that no recording shall be made of the ITV proceeding except a recording made as the official record of the proceeding. Access to recordings of proceedings is governed by Rule 4, subd. 3, of the RULES OF PUBLIC ACCESS TO RECORDS OF THE JUDICIAL BRANCH.

Rule 131.02(d) sets forth requirements for requesting ITV use when there is no stipulation by the parties. A formal motion is required, and it must be served and filed at least seven days prior to the scheduled hearing or proceeding for which ITV use is requested. The rule authorizes ex parte contact with the court for purposes of obtaining an expedited hearing date on the motion for use of ITV. *See* MINN. GEN. R. PRAC. 115.04 (non-dispositive motions normally must be served and filed at 14 days in advance of the hearing). The moving party is responsible under Rule 131.03 for making arrangements to use any site that is outside the control of the court in the venue county, for providing the necessary contact information to the court administrator, for ensuring the compatibility of the equipment, and paying any additional costs incurred by the court in facilitating the ITV session. The motion must also include or be accompanied by a notice informing opposing parties of their right to object, consequences of failure to object, requirements for exchange of information, and prohibitions on recording an ITV session (a sample notice provided for publication by the state court administrator).

Objections to a motion for use of ITV must be made prior to the hearing on the motion. The failure of an opposing party to object may be considered along with other factors set forth in Rule 131.02(d)(4) that may determine good cause for use of ITV. The moving party has the burden of establishing good cause.

Rule 131.02(d)(5) permits the court to shorten the time periods provided for in Rule 131.02 in emergent circumstances upon a proper showing. As of the time of the drafting of this commentary, a different time period is established for requesting ITV use in commitment cases under Rule 14 of the SPECIAL RULES OF PROCEDURE UNDER THE MINNESOTA COMMITMENT ACT AND TREATMENT ACT (requires notice to the other party at least 24 hours in advance of the hearing, and court approval). The drafting committee is of the opinion that following the protocol with the ability to shorten the time frames when necessary will be sufficient to address the needs of commitment and other matters covered by this rule.

Rule 131.03 places responsibility for costs and site arrangements with those seeking to use ITV. The court assumes this responsibility when ordering ITV on its own initiative, as is done for the bulk of the ITV proceedings in the Ninth Judicial District pilot project. When a party or parties initiate the request, however, Rules 131.02(c) and 131.02(d) shift some of the responsibility to the requesting party or parties. Parties also certify that they will comply with the protocol, including the prohibition in Rule 131.06(i) against recording ITV sessions.

Rule 131.04 attempts to highlight an important logistical requirement when ITV is used. Documents and other information need to be exchanged and submitted to the court, where appropriate, prior to the ITV session. This is particularly important when the parties are located at different sites.

Rule 131.07(b) recognizes that ITV use imposes new logistical duties on court administration staff. This section is intended to assist courts as they implement ITV use and to train new staff.

Rules 131.05–.07 set forth the ground rules for conducting ITV sessions. The prohibition on recording ITV sessions set forth in Rule 131.06(i) and echoed throughout the rule is identical to that applicable to telephone hearings under MINN. GEN. R. PRAC. 115.09. This requirement is consistent with the directives of the supreme court regarding use of cameras in the courtroom. *See In re Modification of Section 3A(10) of the Minnesota Code of Judicial Conduct*, No. C4-87-697 (Minn. S. Ct., filed April Jan. 11, 1996) (order reinstating experimental program for audio and video coverage of trial court proceedings); *Order for Interactive Audio-Video Communications Experiment in First Judicial District-Mental Illness Commitment Proceedings*, No. C6-90-649 (Minn. S. Ct., filed April 5, 1995); *Order re Interactive Audio-Video communications Pilot Program in Third Judicial District Mental Illness Commitment Proceedings*, No. C6-90-649 (Minn. S. Ct., filed Jan. 29, 1999); *Order for Interactive Audio and Video Communications*, Fourth Judicial District, Mental Health Division, *Price and Jarvis Proceedings*, No. C6-90-649 (Minn. S. Ct., filed April 8, 1991).

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Rule 131.05(c) requires that counsel and their party must be present at the same terminal site unless otherwise permitted by the court. In commitment cases, court rules do not permit counsel for the patient and the patient to be present at different sites. See rule 14 of the Special Rules of Procedure Under the Minnesota Commitment Act and Treatment Act. Witnesses and other participants may be located at any terminal site that allows satisfactory video and audio reception.

Rule 131.07(c) describes equipment and room standards in functional terms. A more detailed discussion of technical issues and terminology can be found in STATEWIDE VIDEOCONFERENCING COMMITTEE, BRIDGING THE DISTANCE: IMPLEMENTING VIDEOCONFERENCING IN WISCONSIN (June 1999) (available for download from the Wisconsin Supreme Court website, located at <http://www.courts.state.wi.us/circuit/Videoconferencing.htm>).

2. A new Rule 708 should be adopted as follows:

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### **RULE 708. ITV IN CRIMINAL CASES.**

Use of ITV in criminal cases is governed by the rules of criminal procedure and rule 131.07 of these rules.

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#### **Advisory Committee Comments—2008 Amendment**

On November 19, 2007, the Supreme Court issued an order promulgating MINN. R. CRIM. P. 1.04 governing the use of interactive video teleconference (ITV) in criminal proceedings. The order referred the task of developing rules governing the administrative procedures for conducting ITV hearings in criminal matters to the Advisory Committee on General Rules of Practice for the District Courts. In the interim, the Court ordered the State Court Administrator to develop temporary administrative procedures. The administrative procedures are set forth in Rule 131.07 of the General Rules of Practice for the District Courts

3. Although not part of the rule amendment, adoption of these rules will result in the inclusion of the following Forms 131.01 &.02 among those published by the State Court Administrator.

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**FORM 131.01. STIPULATION AND APPROVAL FORM FOR USE OF ITV**

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State of Minnesota

District Court

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COUNTY

JUDICIAL DISTRICT CASE NO.

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Case Type: \_\_\_\_\_

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Jane Doe,

Plaintiff

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786

vs.

**STIPULATION FOR USE OF  
INTERACTIVE TELEVISION**

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John Smith,

Defendant.

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The parties, through their counsel, stipulate and request that \_\_\_\_\_(describe motion)\_\_\_\_\_ scheduled for hearing on \_\_\_\_\_, at \_\_\_\_ o'clock \_\_\_\_m. be heard by interactive television. The parties also certify that the use of ITV will be in accordance with the provisions of Rule 131 of the General rules of Practice for the District Court, including, without limitation, the requirement that no recording shall be made of any ITV proceeding except the recording made as the official court record.

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Dated: \_\_\_\_\_

Counsel for Plaintiff

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Dated: \_\_\_\_\_

Counsel for Defendant

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**APPROVAL**

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The court, upon review of the file and stipulation of the parties, approves the use of interactive television for the above hearing pursuant to the Protocol for Use of ITV in Civil Cases in District Court.

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Dated: \_\_\_\_\_

Judge of District Court

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[Note: The above Stipulation will be attached to the substantive motion to be heard.]

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**FORM 131.02: SAMPLE NOTICES**

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**NOTICE BY COURT OF ITV USE ON COURT'S INITIATIVE**

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819 THE HEARING OR PROCEEDING DESCRIBED ABOVE WILL BE CONDUCTED  
820 BY INTERACTIVE VIDEO TELECONFERENCE (ITV) PURSUANT TO THE  
821 GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS.

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823 WHEN ITV IS USED TO CONDUCT A HEARING OR PROCEEDING, ANY  
824 DOCUMENTS OR OTHER WRITTEN MATERIAL WHICH YOU KNOW TO BE  
825 RELEVANT OR NECESSARY TO THE PROCEEDING MUST BE EXCHANGED  
826 WITH ALL PARTIES AND SUBMITTED TO THE COURT, AS APPROPRIATE,  
827 PRIOR TO COMMENCEMENT OF THE HEARING.

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829 NO RECORDING SHALL BE MADE OF ANY ITV PROCEEDING EXCEPT THE  
830 RECORDING MADE AS THE OFFICIAL COURT RECORD.

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**NOTICE BY PARTY OF ITV USE REQUESTED BY MOTION**

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834 THE MOTION FOR USE OF ITV REQUESTS THAT THE HEARING OR  
835 PROCEEDING DESCRIBED IN THE MOTION BE CONDUCTED BY ITV.  
836 PURSUANT TO THE GENERAL RULES OF PRACTICE FOR THE DISTRICT  
837 COURTS, YOU HAVE THE RIGHT TO OBJECT TO THE USE OF ITV, BUT  
838 YOU MUST DO SO IN WRITING FORTY EIGHT (48) HOURS PRIOR TO THE  
839 HEARING ON THE MOTION FOR USE OF ITV. THE COURT IN RULING ON  
840 THE MOTION WILL CONSIDER FAILURE TO TIMELY OBJECT.

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842 WHEN ITV IS USED TO CONDUCT A HEARING OR PROCEEDING, ANY  
843 DOCUMENTS OR OTHER WRITTEN MATERIAL WHICH YOU KNOW TO BE  
844 RELEVANT OR NECESSARY TO THE PROCEEDING MUST BE EXCHANGED  
845 WITH ALL PARTIES AND SUBMITTED TO THE COURT, AS APPROPRIATE,  
846 PRIOR TO COMMENCEMENT OF THE HEARING.

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848 NO RECORDING SHALL BE MADE OF ANY ITV PROCEEDING EXCEPT THE  
849 RECORDING MADE AS THE OFFICIAL COURT RECORD.

4. Rule 114 of the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act should be amended as follows:

850 **Rule 114 Location of Hearing, Rules of Decorum, Alternative Methods of**  
851 **Presenting Evidence**

852  
853 The judge or judicial officer shall assure the decorum and orderliness of any  
854 hearing held pursuant to Minn. Stat. ch. 253B. The judge or judicial officer shall  
855 afford to respondent an opportunity to be dressed in conformity with the dignity of  
856 court appearances.

857 A hearing may be conducted or an attorney for a party, a party, or a witness  
858 may appear by telephone, audiovisual, or other electronic means if the party intending  
859 to use electronic means notifies the other party or parties at least ~~24 hours~~ seven days  
860 in advance of the hearing and the court approves. If a witness will be testifying  
861 electronically, the notice must include the name, address, and telephone number  
862 where the witness may be reached in advance of the hearing. This rule does not  
863 supersede Minn. Stat. §§ 595.02 – 595.08 (competency and privilege). Respondent’s  
864 counsel will be physically present with the patient. The court shall insure that the  
865 respondent has adequate opportunity to speak privately with counsel, including, where  
866 appropriate, suspension of the audio recording or allowing counsel to leave the  
867 conference table to communicate with the client in private.

868  
869 **Advisory Committee Comment—2008 Amendment**

870 Rule 114 is amended to lengthen the amount of notice required to be given by  
871 a litigant desiring to have a matter heard by electronic means, typically either  
872 telephone or interactive television. The seven days required by the rule can my  
873 adjusted by the court if necessary.  
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