

**CX-89-1863  
STATE OF MINNESOTA  
IN SUPREME COURT**

**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  
November 6, 2007**

**Hon. Elizabeth Anne Hayden  
Chair**

**Hon. G. Barry Anderson  
Liaison Justice**

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Hon. Joseph T. Carter, Hastings  
R. Scott Davies, Minneapolis  
Hon. Mel I. Dickstein, Minneapolis  
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**Michael B. Johnson, Saint Paul  
Staff Attorney**

**David F. Herr, Minneapolis  
Reporter**

## **Introduction**

The Court's Advisory Committee on General Rules of Practice has convened on several occasions during 2007 to consider issues relating to the General Rules of Practice. The most prominent of the issues the committee has addressed relates to the current rules limiting the use of cameras in Minnesota courtrooms. On that issue, the committee reports that it is continuing its process of gathering information and information and expects to make a recommendation to the court within the next few months.

The committee has also examined other issues and reports on those issues now. These issues include two on which rule revisions are recommended, and several as to which the committee does not recommend any action. The committee has reexamined an issue relating to a recommended rule on testimony of child witnesses, and now recommends that no rule be adopted (withdrawing its earlier recommendation on that subject). Finally, the committee recommends that one proposed rule, relating to interpreters, receive further and broader consideration. Each of these recommendations is summarized in the following section.

## **Summary of Committee Recommendations**

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

### **Recommendations that the rules be amended or a new rule adopted**

1. The Court should implement amendments to the Code of Ethics Enforcement Procedure for Rule 114 neutrals as recommended by this Court's ADR Review Board
2. The procedure for streamlining uncontested marriage dissolution proceedings for marriages without children, adopted in 2003 as Minn. Gen. R. Prac. 302.01, should be extended to apply to marriages with children.

As an additional part of this recommendation, Form 12 of Title IV of the rules will need to be revised. The committee believes, however, that the vast majority of the forms in the General Rules should be removed from the rules themselves, and instead maintained and made available on the Court Administrator's website. This procedure would allow the maintenance of these forms on an ongoing basis without requiring review by the advisory committee or formal orders of the Court to implement. Changes are included in this report that address the forms in Title IV of these rules. Future reports will address other forms.

3. This Court should amend the rules for the expedited child support process in accordance with recommendations of Court Services Staff or Family Services, and the State Court Administrator's Office.
4. Rule 803 should be amended to make its language more precisely describe the duties of jury commissioners. These changes are essentially technical and minor in nature.

#### **Recommendations that proposed rule changes not be adopted**

5. The committee withdraws its recommendation, contained in its October 20, 2006, Report (filed as this Report is captioned) that a new Rule 12 be adopted, and recommends that no such rule be adopted at this time. That rule would have provided a special rule for dealing with child witnesses.
6. The committee considered a proposal to revise Rule 119, relating to motions for attorney fees. The committee believes the rule as currently written does not require revision.
7. The committee considered expressed concerns about the interplay of Rule 144, dealing with wrongful death cases, and Rule 145, dealing with minor settlements, and the different court approval processes required by those rules. The committee concludes that the rules do not conflict and that no amendment to either rule is needed.

### **Recommendation that one proposal receive broader attention.**

8. The committee considered one proposed rule, on recommendation from the evidence advisory committee, that should receive further and broader consideration. That rule would require any proceedings in which an interpreter is used to be recorded by audio- or video-recorded so as to permit review of the interpretation.

The concern over occasional interpretation issues, particularly in situations where no certified interpreter is available, is one that potentially interferes with the parties' rights to a fair trial, and should be studied further. The committee also believes this proposal presents potential resource issues that should be reviewed by the State Court Administrator as well as unresolved issues relating to the procedures to be followed to allow review of claimed interpreter errors.

### **Cameras in Courtrooms**

The committee is continuing to confer and hear from witnesses on the issues surrounding the accessibility of Minnesota courtrooms to cameras and audio recording equipment of news media. The committee believes it will be able to make a recommendation to the Court during the second quarter of 2008.

### **Effective Date**

The committee believes these amendments can be adopted, after public hearing if the Court determines a hearing is appropriate, in time to take effect on January 1, 2008.

### **Style of Report**

The specific recommendations are reprinted in traditional legislative format, with new wording underscoring and deleted words ~~struck through~~.

Respectfully submitted,

MINNESOTA SUPREME COURT  
ADVISORY COMMITTEE ON GENERAL  
RULES OF PRACTICE

**Recommendation 1: The Code of Ethics Enforcement Procedure of the ADR Review Board should be amended as recommended by that Board and its staff.**

**Introduction**

This Court’s ADR Review Board has recommended minor modifications to the Code of Ethics Enforcement Procedure for which it has responsibility. These amendments largely conform the code to current practice before the board. These amendments are appropriate for implementation by the Court, in the opinion of this advisory committee.

**Specific Recommendation**

*Specific Recommendation 1.* The Code of Ethics Enforcement Procedure should be amended as follows:

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**CODE OF ETHICS  
ENFORCEMENT PROCEDURE**

\* \* \*

**Rule II. Procedure**

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B. The State Court Administrator’s Office, in conjunction with one ADR Review Board member shall review the complaint and recommend to determine whether the allegations(s), if true, constitute a violation of the Code of Ethics, and whether to refer the complaint to mediation. The State Court Administrator’s Office and ADR Review Board member may also request additional information from the complainant if it is necessary prior to making a recommendation.

C. If the allegations(s) of the complaint do not constitute a violation of the Code of Ethics, the complaint shall be dismissed and the complainant and the neutral shall be notified in writing.

16 D. If ~~the Board concludes that~~ the allegation(s) of the complaint, if true,  
17 constitute a violation of the Code of Ethics, the Board will undertake such review,  
18 investigation, and action it deems appropriate. In all such cases, the Board shall  
19 send to the neutral, by certified mail, a copy of the complaint, a list identifying the  
20 ethical rules which may have been violated, and a request for a written response to  
21 the allegations and to any specific questions posed by the Board. It shall not be  
22 considered a violation of Rule 114.08(e) of the Minnesota General Rules of  
23 Practice or of Rule IV of the Code of Ethics, Rule 114 Appendix, for the neutral to  
24 disclose notes, records, or recollections of the ADR process complained of as part  
25 of the complaint procedure. Except for good cause shown, if the neutral fails to  
26 respond to the complaint in writing within thirty (30) days, the allegations(s) shall  
27 be deemed admitted.

28 The complainant and neutral may agree to mediation or the State Court  
29 Administrator's Office or Board, at its discretion, may refer ~~them~~ complainant and  
30 ~~neutral~~ to mediation conducted by a ~~volunteer~~ qualified neutral to resolve the  
31 issues raised by the complainant. Mediation shall proceed only if both the  
32 complainant and neutral consent. If the complaint is resolved through mediation,  
33 ~~the Board shall dismiss the complaint~~ shall be dismissed, unless the resolution  
34 includes sanctions to be imposed by the Board. If no agreement is reached in  
35 mediation, the Board shall determine whether to proceed further.

36 \* \* \*

37 Advisory Committee Comments—2007 Amendments

38 Rule II. B. is amended in 2007 to implement a streamlined process so that  
39 one ADR Review Board member together with state court administration staff  
40 can make initial determinations. This will allow the process to proceed instead  
41 of waiting for monthly board meetings. Rule II.E. is amended to clarify that  
42 the parties may voluntarily elect mediation in addition to mediation being  
43 offered by the Board.  
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45 **Rule IV. Confidentiality**

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**Advisory Committee Comments—2007 Amendments**

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Rule IV. D. is amended in 2007 to clarify that accessibility to district court information about sanctions is consistent with Rule 114 for all neutrals. In addition to maintaining local rosters of parenting time expeditors, district courts receive notice of sanctions imposed by the ADR Review Board.



**Recommendation 2:**        **The streamlined procedure for using a combined Joint Petition, Agreement, and Judgment and Decree in Rule 302.01(b), now available for marriage dissolution proceedings in marriages without children, should be made available by rule amendment for use in any marriage dissolution case.**

**Introduction**

In 2003 this committee recommended that Rule 302.01 be amended to create a procedure that allowed uncontested marriage dissolution actions to be commenced and adjudicated by a combined Joint Petition, Agreement, and Judgment and Decree. This recommended change was ordered by the court and has operated well since adoption. Following requests from several lawyers, the committee revisited this rule, with specific reference to whether this streamlined procedure should be made available in proceedings for dissolution of a marriage with children when the parties have reached agreement on all issues. The committee is satisfied that this rule should be amended to allow the combined document to be used in any uncontested proceeding.

**Specific Recommendations**

*Specific Recommendation 1.* Rule 302.01 should be amended as follows:

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**RULE 302. COMMENCEMENT; CONTINUANCE;  
TIME; PARTIES**

**Rule 302.01 Commencement of Proceedings**

\* \* \*

**(b) Joint Petition.**

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

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

71 (3) Upon filing of the “Joint Petition, Agreement and Judgment  
72 and Decree,” and Form 11.1 appended to Title I of these rules, and a Notice to the  
73 Public Authority if required by Minn. Stat. § 518.551, subd. 5, the court  
74 administrator shall place the matter on the appropriate ~~default~~ calendar ~~for~~  
75 ~~approval without hearing~~ pursuant to Minn. Stat. § 518.13, subd. 5. A Certificate  
76 of Representation and Parties and documents required by Rules 306.01 and 306.02  
77 shall not be required if the “Joint Petition, Agreement and Judgment and Decree”  
78 provided in Form 12 published by the state court administrator is used.

79 (4) The state court administrator shall maintain, publish and  
80 regularly update, or provide references to, forms that may be used by parties for  
81 purposes of this rule. Court Administrators in each Judicial District shall make the  
82 forms “~~Joint Petition, Agreement and Judgment and Decree for Marriage~~  
83 ~~Dissolution Without Children~~” available to the public at a reasonable cost, ~~as a~~  
84 ~~fill in the blank form.~~

85  
86 **Advisory Committee Comments—2007 Amendments**

87 Rule 302(b) is amended to expand the availability of the streamlined  
88 procedure allowing a marriage dissolution to proceed by use of a single  
89 pleading that combines a joint petition, marital termination agreement, and  
90 judgment and decree. The prior rule allowed this procedure only in marriages  
91 with no children; the amendment allows its use in marriage dissolution  
92 proceedings with children where the parties have agreed on all issues. The  
93 combined form permits the parties to proceed more expeditiously and make it  
94 easier for the parties and the court to verify that the judgment and decree to be  
95 entered by the court conforms to the parties’ agreement.

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The rule also deletes the reference to the former Rule 12 as part of a transition to maintain practice forms related to practice under the rules by court administration and available on the courts' website [www.mcourts.gov] rather than as part of the rule.

*Specific Recommendation 2.* Form 12 should be deleted from the rules.

The combined Joint Petition, Agreement, and Judgment and Decree form, currently Form 12, will need to be revised or split into separate versions to permit its use in marriages either with or without children. In accordance with the recommendation made elsewhere in this report, Form 12 should be removed from the rules, and should be maintained by the state court administrator. Dissolution forms are currently maintained on the state court website ([www.mncourts.gov](http://www.mncourts.gov)).

*Specific Recommendation 3.* The following modifications are necessary to remove the forms from Title IV of the rules and transfer their oversight to the state court administrator. All forms in Title IV should also be removed from the rules.

100 **Rule 303.02 Form of Motion**

101 \* \* \*

102 **(b) Application for Temporary Relief.** When temporary financial  
103 relief is initially requested, such as child support, maintenance and attorney's fees,  
104 the application for temporary relief form developed by the state court  
105 administrator set forth at form 1 appended to these rules shall be served and filed  
106 by the moving and responding parties. Additional facts, limited to relevant and  
107 material matters, shall be added ~~at paragraph 10 of~~ to the application form or by  
108 supplemental affidavit. Sanctions for failure to comply include, but are not limited  
109 to, the striking of pleadings or hearing.

110 **Rule 304.02 The Party's Informational Statement**

111 (a) **Timing.** Within 60 days after filing an action or, if a temporary  
112 hearing is scheduled within 60 days of the filing of the action, then within 60 days  
113 after a temporary hearing is initially scheduled to occur, whichever is later, each  
114 party shall submit, on a form to be available from the court and developed by the  
115 state court administrator (~~see Forms 9A and B appended to these rules~~), the  
116 information needed by the court to manage and schedule the case.

117 \* \* \*

118 (c) **Unrepresented Parties.** Parties not represented by a lawyer may  
119 use forms developed specially by the state court administrator for unrepresented  
120 parties shall, ~~instead of providing the information required above on Form 9A,~~  
121 ~~provide substantially the information required on Form 9B.~~

122 **Rule 305.01 Prehearing Statement**

123 Each party shall complete a prehearing conference statement substantially  
124 in the form developed by the state court administrator ~~set forth at form 2 appended~~  
125 ~~to these rules~~ which shall be served upon all parties and mailed to or filed with the  
126 court at least 10 days prior to the date of the prehearing conference.

127 **Rule 306.01 Scheduling of Final Hearing**

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

135 \* \* \*

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## **RULE 311. FORMS**

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The forms developed by the state court administrator ~~contained in the~~

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~~Appendix of Forms~~ are sufficient under these rules.

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### **Advisory Committee Comment**

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The responsibility for forms development and review is being handed off to the state court administrator to permit more effective forms management and review. This process is already followed for the expedited process. Gen. R. Prac. 379.02.

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**Recommendation 3: The Expedited Child Support Process Rules should be updated to reflect changes in the process and various statutory changes.**

**Introduction**

By memorandum dated July 23, 2007, Deanna J. Dohrmann, Staff Attorney with Court Services, Family Services, State Court Administrator’s Office, and Jodie Metcalf, Manager of the Child Support Magistrate Unit, recommended changes to the Rules of the Expedited Child Support Process. These rules include technical amendments as well as modest substantive amendments to the rules based on experience gained by the child support process. The advisory committee has reviewed these proposed changes, believe they are appropriate for adoption, and accordingly recommend them to the Court.

**Specific Recommendations**

*Specific Recommendation 1.* Rule 352.01 should be amended as follows:

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**RULE 352. DEFINITIONS**

145 **Rule 352.01. Definitions**

146 For purposes of these rules, the following terms have the following  
147 meanings:

148 \* \* \*

149 (b) **“Child support”** means basic support; child care support; medical  
150 support, including the obligation to carry health care coverage, costs for health  
151 care coverage, and unreimbursed / uninsured ~~health-related~~ medical expenses;  
152 expenses for confinement and pregnancy; arrearages; reimbursement; past support;  
153 related costs and fees; and interest and penalties. “Support” also means the

154 enforcement of spousal maintenance when combined with basic support, child  
155 care support, or medical support.

156 (c) **“Child support magistrate”** means an individual appointed by the  
157 chief judge of the judicial district to preside over matters in the expedited process.  
158 “Child support magistrate” also means any family court referee or district court  
159 judge presiding over matters in the expedited process.

160 (c) ~~“County agency” means the local public authority responsible for~~  
161 ~~child support enforcement~~

162 (d) **“County attorney”** means the attorney who represents the ~~county~~  
163 ~~agency~~ public authority, whether that person is employed by the office of the  
164 county attorney or under contract with the office of the county attorney.

165 \* \* \*

166 (f) **“IV-D case”** means any proceeding where a party has either (1)  
167 assigned to the state rights to child support because of the receipt of public  
168 assistance as defined in Minn. Stat. § 256.741 (2000), or (2) applied for child  
169 support services under Title IV-D of the Social Security Act, 42 U.S.C. § 654(4)  
170 (1994). “IV-D case” does not include proceedings where income withholding is  
171 the only service applied for or received under Minn. Stat. § ~~518.6111 (2000)~~  
172 518A.53 (2006).

173 \* \* \*

174 (k) **“Public authority”** means the local unit of government, acting on  
175 behalf of the state, that is responsible for child support enforcement or the  
176 Department of Human Services, Child Support Enforcement Division.

177 (kl) **“Response”** means a written answer to the complaint or motion, a  
178 “request for hearing” form, or, in a parentage matter, a “request for blood or  
179 genetic testing” form.

180 (l) ~~“Support” means child support; child care support; medical support,~~  
181 ~~including medical and dental insurance, and unreimbursed medical and dental~~  
182 ~~expenses; expenses for confinement and pregnancy; arrearages; reimbursement;~~

183 ~~past support; related costs and fees; and interest and penalties. “Support” also~~  
184 ~~means the enforcement of spousal maintenance when combined with child~~  
185 ~~support, child care support, or medical support.~~

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187 **Advisory Committee Comment—2007 Amendment**

188 Rule 352.01(f) is amended to reflect the recodification, effective on  
189 January 1, 2007, of portions of the relevant statutes, to become part of Minn.  
190 Stat. ch. 518A.

*Specific Recommendation 2.* Rule 353.02, subs. 1 & 3 should be amended to replace “county agency” with “public authority” as follows:

191 **RULE 353. TYPES OF PROCEEDINGS**

192 **Rule 353.01. Types of Proceedings**

193 \* \* \*

194 **Rule 353.02. Procedure When Prohibited Issues**

195 **Subdivision 1. Generally.** These rules do not prevent a party, upon timely  
196 notice to all parties and to the ~~county agency~~ public authority, from commencing a  
197 proceeding or bringing a motion in district court if the proceeding or motion  
198 involves one or more issues identified in Rule 353.01, subd. 1, and one or more  
199 issues identified in Rule 353.01, subd. 3.

200 \* \* \*

201 **Subd. 3. Prohibited Issues in Expedited Child Support Process.** If a  
202 proceeding is commenced in the expedited process and the complaint, motion,  
203 answer, responsive motion, or counter motion raises one or more issues identified  
204 in Rule 353.01, subd. 3, all parties, including the ~~county agency~~ public authority,  
205 may agree in writing to refer the entire matter to district court without first  
206 appearing before the child support magistrate. Notice of the agreement must be



207 filed with the court at least five (5) days prior to the scheduled hearing in the  
208 expedited process. The child support magistrate shall issue an order referring the  
209 entire matter to district court. Absent an agreement by all parties and upon motion  
210 of a party or upon the child support magistrate’s own initiative, the child support  
211 magistrate assigned to the matter shall, either before or at the time of the hearing,  
212 decide whether to:

213 \* \* \*

*Specific Recommendation 3.* Rule 354.03 should be amended to include reference to “Columbus Day” as a legal holiday, given the recent decision of *Commandeur LLC v. Howard Hartry, Inc.*, 724 N.W.2d 508 (Minn. 2006):

214 **RULE 354. COMPUTATION OF TIME**

215 \* \* \*

216 **Rule 354.03. “Business Day” Defined**

217 A “business day” means any day that is not a Saturday, Sunday, or legal  
218 holiday. As used in these rules, “legal holiday” means New Year’s Day, Martin  
219 Luther King’s Birthday, Washington’s and Lincoln’s Birthday (Presidents’ Day),  
220 Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran’s Day,  
221 Thanksgiving Day, the day after Thanksgiving Day, Christmas Day, and any other  
222 day designated as a holiday by the President or Congress of the United States, by  
223 the State, or by a county.

224 \* \* \*

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226 **Advisory Committee Comment—2007 Amendment**

227 In 2006 the Minnesota Supreme Court addressed the ambiguity in the  
228 rules and the ambiguity between the rules and statutes over how Columbus  
229 Day, a day that is not only optionally a state holiday but is a federal and U.S.  
230 Mail holiday should be treated. Because the rules generally allow service by  
231 mail, the Court in *Commandeur LLC v. Howard Hartry, Inc.*, 724 N.W.2d 508

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(Minn. 2006), ruled that where the last day of a time period occurred on Columbus Day, service by mail permitted by the rules was timely if mailed on the following day on which mail service was available. The amendment to Rule 354.03 makes it clear that Columbus Day is a “legal holiday” for all purposes in these rules, even if that is not necessarily so by the statutory definition, Minn. Stat. § 645.44, subd. 5 (2006).

*Specific Recommendation 4.* Rule 355 should be amended as follows:

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## **RULE 355. METHODS OF SERVICE**

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### **Rule 355.01. Generally**

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**Subdivision 1. Service Required.** Except for ex parte motions allowed by statute or these rules, every paper or document filed with the court shall be served on all parties and the ~~county agency~~ public authority.

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**Subd. 2. Service Upon Attorney for Party.** If a party, other than the ~~county agency~~ public authority, is represented by an attorney as shown by a certificate of representation in the court file, service shall be made upon the party’s attorney, unless personal service upon the represented party is required under these rules. Except where personal service upon the ~~county agency~~ public authority is required under these rules, service upon the ~~county agency~~ public authority shall be accomplished by serving the county attorney.

250

### **Rule 355.02. Types of Service**

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#### **Subdivision 1. Personal Service.**

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##### **(a) Upon Whom.**

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\* \* \*

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##### **(2) Upon the ~~County Agency~~ Public Authority.** Personal

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service upon the ~~county agency~~ public authority shall be accomplished by serving the director of the county human services department or the director’s designee.

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##### **(b) By Whom Served.** Unless otherwise ordered by the child support

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magistrate, personal service shall be made only by the sheriff or by any other

259 person who is at least 18 years of age who is not a party to the proceeding.  
260 Pursuant to Minn. Stat. § ~~518.5513 (2000)~~ 518A.46 (2006), an employee of the  
261 county agency may serve documents on parties.

262 \* \* \*

263 **Subd. 2. Service by U.S. Mail.** Service by U.S. mail means mailing a  
264 copy of the document by first-class mail, postage prepaid, addressed to the person  
265 to be served at the person’s last known address. Service by mail shall be made  
266 only by the sheriff or by any other person who is at least 18 years of age who is  
267 not a party to the proceeding. Pursuant to Minn. Stat. § ~~518.5513 (2000)~~ 518A.46  
268 (2006), an employee of the ~~county agency~~ public authority may serve documents  
269 on the parties.

270 \* \* \*

*Specific Recommendation 5.* Rule 360.01 should be amended to replace  
“county agency” with “public authority” as follows:

271 **RULE 360. INTERVENTION**

272 **Rule 360.01. ~~County Agency~~ Public Authority**

273 **Subdivision 1. Intervention as a Matter of Right.** To the extent allowed  
274 by law, the ~~county agency~~ public authority may, as a matter of right, intervene as a  
275 party in any matter conducted in the expedited process. Intervention is  
276 accomplished by serving upon all parties by U.S. mail a notice of intervention.  
277 The notice of intervention and affidavit of service shall be filed with the court.

278 **Subd. 2. Effective Date.** Intervention by the ~~county agency~~ public  
279 authority is effective when the last person is served with the notice of intervention.

280 \* \* \*

*Specific Recommendation 6.* Rule 361 should be amended as follows:

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## **RULE 361. DISCOVERY**

### **Rule 361.01. Witnesses**

283 Any party may call witnesses to testify at any hearing. Any party intending  
284 to call a witness other than an employee of the ~~county agency~~ public authority or  
285 any party to the proceeding shall, at least five (5) days before the hearing, provide  
286 to the other parties and the ~~county agency~~ public authority written notice of the  
287 name and address of each witness.

### **Rule 361.02. Exchange of Documents**

289 **Subdivision 1. Documents Required to be Provided Upon Request.** If a  
290 complaint or motion has been served and filed in the expedited process, a party  
291 may request any of the documents listed below. The request must be in writing  
292 and served upon the appropriate party. The request may be served along with the  
293 pleadings. A party shall provide the following documents to the requesting party  
294 no later than ten (10) days from the date of service of the written request.

295 (a) Verification of income, ~~health/dental insurance~~ costs and availability  
296 of dependent health care coverage, child care costs, and expenses.

297 (b) Copies of last three months of pay stubs.

298 (c) A copy of last two years' State and Federal income tax returns with  
299 all schedules and attachments, including Schedule Cs, W-2s and/or 1099s.

300 (d) Written verification of any voluntary payments made for support of of  
301 joint child.

302 (e) Written verification of any other court-ordered child support  
303 obligations for a nonjoint child.

304 (f) Written verification of any court-ordered spousal maintenance  
305 obligation for a former spouse.

306 \* \* \*

307 **Subd. 3. Financial Statement.** If a complaint or motion has been served,  
308 any party may request in writing that a financial statement be completed by a  
309 party, other than a ~~county~~ public agency, and submitted five (5) days prior to  
310 hearing, or if no hearing is scheduled, within ten (10) days from the request being  
311 served. Failure to comply is subject to remedies under Rule 361.04. Where a  
312 financial statement requests supporting documentation, it shall be attached.

313 \* \* \*

314 **Rule 361.06. Subpoena**

315 \* \* \*

316 **Subd. 2. Service of Subpoenas Shall be by Personal Service.** All  
317 subpoenas shall be personally served by the sheriff or by any other person who is  
318 at least 18 years of age who is not a party to the action. Employees of the ~~county~~  
319 ~~agency~~ public authority may personally serve subpoenas. The person being served  
320 shall, at the time of service, be given the fees and mileage allowed by Minn. Stat.  
321 § 357.22 (2000). When the subpoena is requested by the ~~county agency~~ public  
322 authority, fees and mileage need not be paid. The cost of service, fees, and  
323 expenses of any witnesses who have been served subpoenas shall be paid by the  
324 party at whose request the witness appears. The person serving the subpoena shall  
325 provide proof of service by filing the original subpoena with the court, along with  
326 an affidavit of personal service.

327 \* \* \*

*Specific Recommendation 7.* Rule 362.02 should be amended by replacing “county agency” with “public authority”:

328 **RULE 362. SETTLEMENT**

329 \* \* \*

330 **Rule 362.02. Signing of Order**

331 **Subdivision 1. Preparation and Signing.** If the parties reach an  
332 agreement resolving all issues, one of the parties shall prepare an order setting  
333 forth the terms of the agreement. If the parties are not represented by counsel and  
334 the ~~county agency~~ public authority is a party, the ~~county agency~~ public authority  
335 shall prepare the order. All parties to the agreement, including the ~~county agency~~  
336 public authority, shall sign the original order. The order shall state that the parties  
337 have:

338 (a) waived the right to a hearing;

339 (b) waived the right to counsel where a party is not represented by  
340 counsel; and

341 (c) received and reviewed all documents used to prepare the order.

342 \* \* \*

*Specific Recommendation 8.* Rule 363 should be amended as follows:

343 **RULE 363. DEFAULT**

344 \* \* \*

345 **Rule 363.02. Procedure**

346 The initiating party may proceed by default if:

- 347 (a) all noninitiating parties have been properly served with the summons  
348 or notice of motion;
- 349 (b) the summons or notice of motion did not contain a hearing date; and
- 350 (c) there has been no written answer or return of the request for hearing  
351 form from any party within twenty (20) days from the date the last party was  
352 served.

353 The initiating party shall file an order with the court within forty-five (45)  
354 days from the date the last noninitiating party was served with the summons and  
355 complaint or notice of motion and motion. The initiating party shall also file with  
356 the court a current affidavit of default and a current affidavit of non-military status.  
357 If an order is not filed with the court within forty-five (45) days, the court  
358 administrator shall mail a notice to all parties that the matter shall be scheduled for  
359 hearing unless the initiating party files an order along with all necessary  
360 documents within ten (10) days from the date notice was mailed. If the initiating  
361 party fails to file the necessary documents within the allotted ten (10) days, the  
362 court administrator shall set the matter on for hearing and serve upon all parties  
363 and the ~~county agency~~ public authority by U.S. mail at least fourteen (14) days  
364 before the scheduled hearing, notice of the date, time, and location of the hearing.

365 \* \* \*

366 **Rule 363.04. Order Not Accepted**

367 The child support magistrate may reject an order filed pursuant to Rule  
368 363.02 if the child support magistrate finds the order contrary to law, or  
369 unreasonable and unfair. If the child support magistrate rejects the order, the child  
370 support magistrate shall prepare a notice of deficiency, stating the reason(s) why  
371 the order cannot be signed. The notice of deficiency shall inform the initiating  
372 party of the following options:

- 373 (a) to file and serve any missing documents;
- 374 (b) to file a revised order;

- 375 (c) to file a revised order and attach any missing or additional
- 376 documents;
- 377 (d) to appear at a hearing, notice of which shall be issued by the court
- 378 administrator to all parties;
- 379 (e) to appear at any previously scheduled hearing; or
- 380 (f) to withdraw the matter without prejudice.

381 The court administrator shall mail the notice of deficiency to the initiating  
382 party. The initiating party shall either correct the deficiency or set the case on for  
383 a hearing and serve notice of the date, time, and location of the hearing upon all  
384 parties pursuant to Rule 364. If the initiating party submits a revised order that  
385 raises new issues beyond the scope of the complaint or motion, amended pleadings  
386 ~~shall be served and filed~~ and served on all parties ~~pursuant to Rule 370.06 or Rule~~  
387 372.06 within 10 days from the date the notice of deficiency was mailed. If the  
388 noninitiating party chooses to respond to the amended pleadings, the response  
389 must be served and filed within 10 days from service of the amended pleadings. If  
390 the initiating party fails to schedule a hearing or comply with the notice of  
391 deficiency within forty-five (45) days of the date the notice was mailed, the child  
392 support magistrate shall dismiss the matter without prejudice.

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**Advisory Committee Comment—2007 Amendment**

Rule 356.043 is amended to include an explicit deadline for serving and filing any response to a notice of deficiency. The ten-day period runs from the date of mailing the notice of deficiency. The rule also creates a ten-day deadline for responding to any amended pleadings served in response to a notice of deficiency, but this period runs from service, not mailing.



*Specific Recommendation 9.* Rule 364.02 and Rule 364.10, subd. 3 should be amended to replace “county agency” with “public authority” as follows:

400 **RULE 364. HEARING PROCESS**

401 \* \* \*

402 **Rule 364.02. Scheduling of Hearing**

403 The initiating party shall schedule a hearing if a written answer or a request  
404 for hearing form is received. The initiating party shall contact the court  
405 administrator or the court administrator’s designee to obtain a hearing date and  
406 shall serve upon all parties and the ~~county agency~~ public authority by U.S. mail at  
407 least fourteen (14) days before the scheduled hearing, notice of the date, time, and  
408 location of the hearing.

409 \* \* \*

410 **Rule 364.10. Evidence**

411 \* \* \*

412 **Subd. 3. Documents.** Ordinarily, copies or excerpts of documents instead  
413 of originals may be received or incorporated by reference. The child support  
414 magistrate may require the original or the complete document if the copy is not  
415 legible, there is a genuine question of accuracy or authenticity, or if it would be  
416 unfair to admit the copy instead of the original. Any financial documents prepared  
417 by the employee of the ~~county agency~~ public authority are admissible without  
418 requiring foundation testimony or appearance of the employee of the county  
419 agency.

420 \* \* \*

*Specific Recommendation 10.* Rule 366.01, subd. 2 should be amended to replace “county agency” with “public authority” as follows:

421 **RULE 366. TRANSCRIPT**

422 **Rule 366.01. Ordering of Transcript**

423 \* \* \*

424 **Subd. 2. Clerical or Review Requests.** If a party chooses to request a  
425 transcript for purposes of bringing or responding to a motion to correct clerical  
426 mistakes, a motion for review, or a combined motion, a request for transcript form  
427 shall be filed with the court within the time required under Rule 377.02 and  
428 377.04. The party requesting the transcript must make satisfactory arrangements  
429 for payment with the transcriber within thirty (30) days of ordering the transcript  
430 or the request for the transcript shall be deemed cancelled. The requesting party  
431 may withdraw that party’s request for a transcript any time prior to the time  
432 transcription has begun. The transcriber shall file the original with the court and  
433 serve each party, including the ~~county agency~~ public authority if a party, with a  
434 copy. The transcriber shall also file with the court an affidavit of service verifying  
435 that service has been made upon all parties. Ordering and filing of a transcript  
436 does not delay the due dates for the submissions described in Rule 377.02 and  
437 Rule 377.04. Filing of the transcript with the court closes the record for purposes  
438 of Rule 377.09, subd. 1.

*Specific Recommendation 11.* Rule 369 should be amended as follows:

439                   **RULE 369. ROLE OF COUNTY ATTORNEY AND**  
440                   **EMPLOYEES OF THE ~~COUNTY AGENCY~~ PUBLIC AUTHORITY**

441                   **Rule 369.01. Role of County Attorney**

442                   **Subdivision 1. Approval as to Form and Content.** The county attorney  
443 shall review and approve as to form and content all legal documents prepared by  
444 employees of the ~~county agency~~ public authority for use in the expedited process  
445 or in district court.

446                   **Subd. 2. Attendance at Hearings.** The ~~county agency~~ public authority  
447 shall appear through counsel. However, the county attorney may authorize an  
448 employee of the ~~county agency~~ public authority to appear on behalf of the county  
449 attorney to present an agreement or stipulation reached by all the parties. An  
450 employee of the ~~county agency~~ public authority shall not advocate a position on  
451 behalf of any party. The county attorney is not required to be present at any  
452 hearing to which the ~~county agency~~ public authority is not a party.

453                   **Rule 369.02. Role of Employees of ~~County Agency~~ Public Authority**

454                   **Subdivision 1. County Attorney Direction.** Under the direction of, and  
455 in consultation with, the county attorney, and consistent with Rules 5.3 and 5.5 of  
456 the Minnesota Rules of Professional Conduct, employees of the ~~county agency~~  
457 public authority may perform the following duties:

458                   (a) meet and confer with parties by mail, telephone, electronic, or other  
459 means regarding legal issues;

460                   (b) explain to parties the purpose, procedure, and function of the  
461 expedited child support process and the role and authority of nonattorney  
462 employees of the ~~county agency~~ public authority regarding legal issues;

463                   \* \* \*

464 (i) exercise other powers and perform other duties as permitted by  
465 statute or these rules.

466 Employees of the ~~county agency~~ public authority shall not represent the  
467 ~~county agency~~ public authority at hearings conducted in the expedited process.

468 **Subd. 2. Support Recommendations Precluded.** Employees of the  
469 ~~county agency~~ public authority may not offer recommendations regarding support  
470 at the hearing unless called as a witness at the hearing. Computation and  
471 presentation of support calculations are not considered recommendations as to  
472 support.

473 **Subd. 3. County Attorney Direction Not Required.** Without direction  
474 from the county attorney, employees of the ~~county agency~~ public authority may  
475 perform the duties listed under Minn. Stat. § ~~518.5513, subd. 2(c) (2000)~~ 518A.46,  
476 subd. 2(c) (2006). In addition, employees of the county agency may testify at  
477 hearings at the request of a party or the child support magistrate.

478 **Subd. 4. Performance of Duties Not Practice of Law.** Performance of  
479 the duties identified in Rule 369.02 by employees of the ~~county agency~~ public  
480 authority does not constitute the unauthorized practice of law for purposes of these  
481 rules or Minn. Stat. § 481.02 (2000).

*Specific Recommendation 12.* Rule 370 should be amended as follows:

## 482 **II. PROCEEDINGS**

### 483 **RULE 370. ESTABLISHMENT OF SUPPORT PROCEEDINGS**

484 \* \* \*

#### 485 **Rule 370.02. Content of Summons, Complaint, Supporting Affidavit, and** 486 **Request for Hearing Form**

487 **Subdivision 1. Content of Summons.** A summons shall:

488 (a) state the name of the court;

489 \* \* \*

490 (k) be signed by the initiating party or that party's attorney.

491 If there is reason to believe that domestic violence exists or if an order for  
492 protection has been issued, the party may provide an alternative address and  
493 telephone number. Pursuant to Minn. Stat. § 518.005, subd. 5 (2000), in all  
494 actions in which public assistance is assigned or the ~~county agency~~ public  
495 authority is providing services to a party or parties to the action, information  
496 regarding the location of one party may not be released by the ~~county agency~~  
497 public authority to any other party if the ~~county agency~~ public authority has  
498 knowledge that a protective order with respect to the other party has been entered  
499 or has reason to believe that the release of the information may result in physical  
500 or emotional harm to the other party.

501 \* \* \*

502 **Subd. 3. Content of Supporting Affidavit.** A supporting affidavit is  
503 required when the summons does not contain a hearing date. The supporting  
504 affidavit shall:

505 (a) state detailed facts supporting the request for relief;

506 (b) provide all information required by Minn. Stat. § ~~518.5513, subd.~~  
507 ~~3(a) (2000)~~ 518A.46, subd. 3(a) (2006), if known; and

508 (c) be signed and sworn to under oath.

509

510 **Advisory Committee Comment—2007 Amendment**

511 Pursuant to Minn. Stat. § ~~518.5513, subd. 3(a)~~ 518A.46, subd. 3(b), for  
512 all cases involving establishment or modification of support, the pleadings are  
513 to contain specific information. At times, it may be necessary to attach  
514 additional supporting documents. Each county should establish its own local  
515 policy regarding the attachment of supporting documents.

516

517 \* \* \*

518 **Rule 370.03. Service of Summons and Complaint**

519           **Subdivision 1. Who is Served.** All parties, and the ~~county agency~~ public  
520 authority even if not a party, shall be served pursuant to subdivision 2.

521           **Subd. 2. How Served.** The summons and complaint, and if required the  
522 supporting affidavit and request for hearing form, shall be served upon the parties  
523 by personal service, or alternative personal service, pursuant to Rule 355.02,  
524 unless personal service has been waived in writing. Where the ~~county agency~~  
525 public authority is the initiating party, the party who is receiving assistance from  
526 the county or who has applied for child support services from the county may be  
527 served by any means permitted under Rule 355.02.

528 **Rule 370.04. Filing Requirements**

529           \* \* \*

530           **Subd. 2. Responding Party.** If a noninitiating party responds with a  
531 written answer pursuant to Rule 370.05, the following shall be filed with the court  
532 no later than five (5) days before any scheduled hearing or, if no hearing is  
533 scheduled, within ~~fourteen (14)~~ twenty (20) days from the date the last party was  
534 served:

- 535           (a) the original written answer; ~~and~~  
536           (b) a financial affidavit pursuant to Minn. Stat. § 518A.28; and  
537           (c) proof of service upon each party pursuant to Rule 355.04.

538           \* \* \*

*Specific Recommendation 13.* Rule 371 should be amended as follows:

539   **RULE 371. PARENTAGE ACTIONS**

540           \* \* \*

541 **Rule 371.02. Content of Summons, Complaint, and Supporting Affidavit**

542           **Subdivision 1. Content of Summons.** A summons shall:

543 (a) state the name of the court;

544 \* \* \*

545 (j) be signed by the initiating party or that party's attorney.

546 If there is reason to believe that domestic violence exists or if an order for  
547 protection has been issued, a party may provide an alternative address and  
548 telephone number. Pursuant to Minn. Stat. § 257.70(b) (2000), in all actions in  
549 which public assistance is assigned or the ~~county agency~~ public authority is  
550 providing services to a party or parties to the action, information regarding the  
551 location of one party may not be released by the ~~county agency~~ public authority to  
552 any other party if the ~~county agency~~ public authority has knowledge that a  
553 protective order with respect to the other party has been entered or has reason to  
554 believe that the release of the information may result in physical or emotional  
555 harm to the other party.

556 \* \* \*

557 **Subd. 3. Content of Supporting Affidavit.** A supporting affidavit shall:

558 (a) state detailed facts supporting the request for relief, including the  
559 facts establishing parentage;

560 (b) provide all information required by Minn. Stat.. § ~~518.5513, subd.~~  
561 ~~3(a)~~ 518A.46, subd. 3(a) (2006), if known; and

562 (c) be signed and sworn to under oath.

563 **Advisory Committee Comment—2007 Amendment**

564 Pursuant to Minn. Stat. § ~~518.5513, subd. 3(a)~~ 518A.46, subd. 3(a), for  
565 all cases involving establishment or modification of support, the pleadings are  
566 to contain specific information. At times, it may be necessary to attach  
567 additional supporting documents. Each county should establish its own local  
568 policy regarding the attachment of supporting documents.

### 569 **Rule 371.03. Service of Summons and Complaint**

570 **Subdivision 1. Who is Served.** The biological mother, each man  
571 presumed to be the father under Minn. Stat. § 257.55 (2000), each man alleged to

572 be the biological father, and the ~~county agency~~ public authority even if not a party,  
573 shall be served pursuant to subdivision 2.

574 \* \* \*

#### 575 **Rule 371.04. Filing Requirements**

576 **Subdivision 1. Initiating Party.** No later than five (5) days before any  
577 scheduled hearing ~~or, if no hearing is scheduled, within fourteen (14) days from~~  
578 ~~the date the last party was served,~~ the initiating party shall file the following with  
579 the court:

580 (a) the original summons;

581 \* \* \*

582 **Subd. 2. Responding Party.** If a noninitiating party responds with a  
583 written response pursuant to Rule 371.05, the following, if served, shall be filed  
584 with the court no later than five (5) days before any scheduled hearing:

585 (a) the original written answer along with a financial affidavit pursuant  
586 to Minn. Stat. § 518A.28; or

587 (b) a request for blood or genetic testing; and

588 (c) proof of service upon each party pursuant to Rule 355.04.

589 \* \* \*

#### 590 **Rule 371.05 Response**

591 **Subdivision 1. Response Options.** In addition to appearing at the hearing  
592 as required under Rule 371.10, subd. 1, a noninitiating party may do one or more  
593 of the following:

594 (a) contact the initiating party to discuss settlement; or

595 (b) within ~~fourteen (14)~~ twenty (20) days of service of the summons and  
596 complaint, serve upon all parties one or more of the written responses pursuant to  
597 subdivision 2.

598 \* \* \*



599 **Rule 371.10. Hearing Procedure**

600 \* \* \*

601 **Subd. 2. Exception.** If all parties, including the ~~county agency~~ public  
602 authority, sign an agreement that contains all statutory requirements for a  
603 parentage adjudication, including a statement that the parties waive their right to a  
604 hearing, the hearing may be stricken. The matter shall not be stricken from the  
605 court calendar until after the child support magistrate reviews and signs the  
606 agreement. The court administrator shall strike the hearing upon receipt of the  
607 agreement signed by the child support magistrate.

608 \* \* \*

*Specific Recommendation 14.* Rule 372 should be amended as follows:

609 **RULE 372. MOTIONS TO MODIFY, MOTIONS TO**  
610 **SET SUPPORT, AND OTHER MATTERS**

611 **Rule 372.01. Commencement**

612 \* \* \*

613 **Subd. 2. Other Motions.** Except as otherwise provided in these rules, all  
614 proceedings shall be commenced in the expedited process by service of a notice of  
615 motion, motion, and supporting affidavit. Service shall be made at least fourteen  
616 (14) days prior to the scheduled hearing.

617 **Rule 372.02. Content of Notice of Motion, Motion, Supporting Affidavit, and**  
618 **Request for Hearing Form**

619 \* \* \*  
620

621 **Subd. 3. Content of Supporting Affidavit.** A supporting affidavit shall:

- 622 (a) state detailed facts supporting the request for relief;
- 623 (b) for motions to modify support and motions to set support, provide all
- 624 information required by Minn. Stat. § ~~518.5513, subd. 3(a)~~ 518A.46, subd. 3(a)
- 625 (2006), if known; and
- 626 (c) be signed and sworn to under oath.

627 \* \* \*

628 **Advisory Committee Comment—2007 Amendment**

629 Pursuant to Minn. Stat. § ~~518.5513, subd. 3(a)~~ 518A.46, subd. 3(a), for

630 all cases involving establishment or modification of support, the pleadings are

631 to contain specific information. At times, it may be necessary to attach

632 additional supporting documents. Each county should establish its own local

633 policy regarding the attachment of supporting documents.

634 **Rule 372.03. Service of Notice of Motion and Motion**

635 **Subdivision 1. Who is Served.** All parties, and the ~~county agency~~ public

636 authority even if not a party, shall be served pursuant to subdivision 2.

637 \* \* \*

638 **Rule 372.05. Response**

639 \* \* \*

640 **Subd. 2. Hearing Date Not Included in the Notice of Motion.** If the

641 notice of motion does not contain a hearing date, within fourteen (14) days from

642 service of the motion, a noninitiating party shall either:

643 (a) request a hearing by returning the request for hearing form to the

644 initiating party; or

645 (b) ~~within fourteen (14) days of service of the notice of motion and~~

646 ~~motion~~, serve upon all other parties a responsive motion or counter motion.

647 \* \* \*

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**Advisory Committee Comment—2007 Amendment**

Rule 372.05, subd. 2, is amended to apply the 14-day deadline for responding to a motion to either of the permitted responses: to request a hearing or to file a responsive motion or counter-motion.

*Specific Recommendation 15.* Rule 377 should be amended as follows:

652  
653  
654

**RULE 377. PROCEDURE ON A MOTION TO CORRECT  
CLERICAL MISTAKES, MOTION FOR REVIEW,  
OR COMBINED MOTION**

655

\* \* \*

656

**Rule 377.02. Timing of Motion**

657

To bring a motion to correct clerical mistakes, the aggrieved party shall perform items (a) through (e) as soon as practicable after discovery of the error.

658

659

To bring a motion for review or a combined motion, the aggrieved party shall

660

perform items (a) through (f) within twenty (20) days of the date the court

661

administrator served that party with the notice form as required by Rule 365.04.

662

(a) Complete the motion to correct clerical mistakes form, motion for review form, or combined motion form.

663

664

(b) Serve the completed motion for clerical mistakes form, motion for review form, or combined motion form upon all other parties and the ~~county~~

665

666

agency public authority. Service may be made by personal service or by U.S. mail

667

pursuant to Rule 355.02.

668

\* \* \*

669

**Rule 377.04. Response to Motion**

670

**Subdivision. 1. Timing of Response to Motion.** A party may respond to

671

a motion to correct clerical mistakes or a motion for review. Any response shall

672

state why the relief requested in the motion should or should not be granted. If a

673

responding party wishes to raise other issues, the responding party must set forth

674 those issues as a counter motion in the response. To respond to a motion to  
675 correct clerical mistakes the party shall perform items (a) through (e) within ten  
676 (10) days of the date the party was served with the motion. To respond to a  
677 motion for review or a combined motion the party shall perform (a) through (f)  
678 within thirty (30) days of the date the party was served with the notice under Rule  
679 365.04. To respond to a counter motion, the party shall perform items (a) through  
680 (f) within forty (40) days of the date the party was served with the notice under  
681 Rule 365.04.

682 (a) Complete the response to motion to correct clerical mistakes form,  
683 response to motion for review form, or response to combined motion form.

684 (b) Serve the completed response to motion for clerical mistakes form,  
685 response to motion for review form, or response to combined motion form upon  
686 all other parties and the ~~county agency~~ public authority. Service may be made by  
687 personal service or by U.S. mail pursuant to Rule 355.02.

688 \* \* \*

### 689 **Rule 377.09. Basis of Decision and Order**

690 **Subdivision 1. Timing.** Within forty-five (45) days of the close of the  
691 record, the child support magistrate or district court judge shall file with the court  
692 an order deciding the motion. In the event a notice to remove is granted pursuant  
693 to Rule 368, the forty-five (45) days begins on the date the substitute child support  
694 magistrate or district court judge is assigned. The record shall be deemed closed  
695 upon occurrence of one of the following, whichever occurs later:

696 (a) filing of a response pursuant to Rule 377.04;

697 \* \* \*

698 (d) submission of new evidence under subdivision 4.

699 If none of the above events occur, the record on a motion for review or  
700 combined motion shall be deemed closed forty-six (46) days after service of the  
701 notice of filing as required by Rule 365.04, despite the requirements of Rule

702 354.04. For a motion to correct clerical mistakes and none of the above events  
703 occur, the record shall be deemed closed 15 days after service of the motion to  
704 correct clerical mistakes.

705 **Subd. 2. Decision.**

706 \* \* \*

707 **(b) Motion for Review.** The child support magistrate or district court  
708 judge shall make an independent review of any findings or other provisions of the  
709 underlying decision and order for which specific changes are requested in the  
710 motion. The child support magistrate or district court judge ~~shall~~ may affirm the  
711 order without making additional findings. ~~unless~~ If the court determines that the  
712 findings and order are not supported by the record or the decision is contrary to  
713 law, ~~the~~ child support magistrate or district court judge may issue an order:

714 \* \* \*

715 **Advisory Committee Comment—2007 Amendment**

716 Rule 377.09, subd. 2(b) is amended to correct language of the existing  
717 rule that could be interpreted to have a mandatory meaning not intended by the  
718 drafters. The revised rule allows the child support magistrate to affirm an order  
719 without findings, but does not require that. The rule is intended to adopt  
720 expressly a de novo standard of review. The reviewing court need not make  
721 findings if the decision is to affirm. De novo review is consistent with the  
722 reported decisions construing the former rule. *See, e.g., Kilpatrick v.*  
723 *Kilpatrick*, 673 N.W.2d 528, 530 n.2 (Minn. Ct. App. 2004); *Davis v. Davis*,  
724 631 N.W.2d 822, 825 (Minn. Ct. App. 2001); *Blonigen v. Blonigen*, 621  
725 N.W.2d 276, 280 (Minn. Ct. App. 2001), *review denied* (Minn. Mar. 13,  
726 2001)."

*Specific Recommendation 16.* Rule 379 should be amended as follows:

727 **4. FORMS**

728 **RULE 379. FORMS**

729 \* \* \*

730 **~~Rule 379.05. Exception from Rules Governing Civil Actions~~**

731            **~~Subdivision 1. Informational Statement.~~** The Informational Statement  
732 ~~required by Minn. Gen. R. Prac. 304.02 is not required to be filed in cases brought~~  
733 ~~in the expedited process.~~

734            **~~Subd. 2. Prehearing Statement.~~** The Prehearing Statement required by  
735 ~~Minn. Gen. R. Prac. 305.01 is not required to be filed in cases brought in the~~  
736 ~~expedited process.~~

**Recommendation 4:        The court should amend Rule 806 to make its language more precisely state the obligations of jury commissioners.**

**Introduction**

In its 2006 report this advisory committee recommended that Minn. Gen. R. Prac. 803 be amended to clarify that a jury commissioner should not be made responsible for the representativeness of any jury source list, as the commissioner has no ability to control the composition of these lists. A jury commissioner does have control over the use of those lists to assemble a jury pool that is representative of the relevant adult population. Because Rule 806 contains language similar to that in Rule 803 before the amendment recommended in 2006, the committee believes Rule 806 should now be amended to make it clear that the jury commissioner’s responsibility is to report on the overall results of his or her efforts to maintain representative juror pools.

**Specific Recommendation**

*Specific Recommendation 1.* Rule 806 should be amended as follows:

737

**RULE 806. JURY SOURCE LIST**

738

\* \* \*

739

740

741

742

(e) The jury commissioner shall review the jury source list once every four years for its ~~representativeness and inclusiveness~~ and the jury pool for its representativeness of the adult population in the county and report the results to the chief judge of the judicial district.

743 (f) If the chief judge, or designee, determines that improvement is needed  
744 in either the representativeness or inclusiveness of the jury source list or the  
745 representativeness of the jury pool, appropriate corrective action shall be ordered.

746

747

**Advisory Committee Comment—2007 Amendment**

748

Rules 806(e) & (f) are amended to state the jury commissioner's responsibility more precisely. Because a jury commissioner does not have control over the composition of the jury source list, the rule should not impose a duty relating to the source list. It shifts that responsibility, however, to require the jury commissioner assess the representitiveness of the jury pool as a whole, not the constituent lists. This amendment is not intended to lessen in any way the representitiveness of jury pools. This change is similar in purpose and form to the amendment of Minn. Gen. R. Prac. 803, effective January 1, 2007.

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