

STATE OF MINNESOTA  
IN SUPREME COURT  
ADM09-8009

**FILED**

November 30, 2017

OFFICE OF  
APPELLATE COURTS

**AMENDED ORDER REGARDING PROPOSED AMENDMENTS  
TO THE GENERAL RULES OF PRACTICE  
FOR THE DISTRICT COURTS**

The Minnesota Supreme Court Advisory Committee on the General Rules of Practice for the District Courts has filed a report that recommends amendments to the rules. Among other recommendations, the Committee's report addressed the petition filed on November 30, 2016, by the Minnesota Tribal Court/State Court Forum, and the Committee proposed amendments to Rule 10 of the General Rules of Practice. The Committee's report is attached to this order and can be accessed on P-MACS, the public access site for the Minnesota appellate courts, under case number ADM09-8009, *Recommendations of Minnesota Supreme Court Advisory Committee on General Rules of Practice Final Report* (filed Oct. 27, 2017). The court will consider the proposed amendments to the General Rules of Practice for the District Courts after reviewing any comments on the recommended amendments.

**IT IS HEREBY ORDERED THAT:**

1. Any person or organization wishing to provide written comments in support of or in opposition to the proposed amendments to the General Rules of Practice shall file one copy of those comments with the Clerk of the Appellate Courts, using the appellate courts' e-filing application, E-MACS, if required to do so, *see* Minn. R. Civ. App. P.

125.01(a)(1). All comments shall be filed so as to be received no later than January 19, 2018.

2. A hearing will be held before this court to consider the proposed amendments to Rule 10 of the General Rules of Practice. The hearing will take place in Courtroom 300, Minnesota Judicial Center, 25 Reverend Dr. Martin Luther King, Jr. Blvd., Saint Paul, Minnesota, on March 14, 2018, at 9 a.m. Any person or organization wishing to make an oral presentation at the hearing in support of or in opposition to the proposed amendments shall file a request to appear at the hearing, using E-MACS if required to do so, along with one copy of the material to be presented, with all such requests filed so as to be received no later than January 19, 2018.

Dated: November 30, 2017

BY THE COURT:



Lorie S. Gildea  
Chief Justice

**ADM09-8009  
STATE OF MINNESOTA  
IN SUPREME COURT**

**FILED**

October 27, 2017

**OFFICE OF  
APPELLATE COURTS**

**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**

**October 27, 2017**

**Hon. Stephen M. Halsey, Buffalo  
Chair**

**Hon. Margaret Chutich, Saint Paul  
Liaison Justice**

**Kevin P. Curry, Minneapolis  
Jill I. Frieders, Rochester  
Phillip Gainsley, Minneapolis  
Hon. Jason T. Hutchison, Minneapolis  
Sean Jones, Grand Rapids<sup>1</sup>  
Heather Kendall, Saint Paul<sup>2</sup>  
Kenneth A. Kimber, Duluth  
Lisa D. Kontz, West St. Paul**

**Rhonda J. Magnussen, Elk River  
Lynae K. E. Olson, Saint Paul<sup>3</sup>  
Henry Parkhurst, Minneapolis  
Timothy J. Pramas, Saint Paul  
Susan C. Rhode, Minneapolis  
Galen Robinson, Minneapolis  
Hon. Mark M. Starr, Hibbing  
Hon. Mary R. Vasaly, Minneapolis**

**Michael B. Johnson, Saint Paul  
Patrick Busch, Saint Paul  
Staff Attorneys**

**David F. Herr, Minneapolis  
Reporter**

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<sup>1</sup> Committee appointment commenced July 1, 2017.

<sup>2</sup> Committee appointment expired June 30, 2017.

<sup>3</sup> Committee appointment ended upon retirement on July 26, 2017.

## **Introduction**

The advisory committee met four times in 2017 (March, May, June and September) to address various issues relating to the rules and to review the operation of the rules. The primary task confronting the committee, however, was the consideration of the Petition of the Minnesota Tribal Court/State Court Forum to replace existing Rule 10 of the Minnesota General Rules of Practice with a new proposed version.

## **Summary of Recommendations**

This report makes essentially three recommendations. These recommendations are:

1. After careful consideration, a majority of the committee voted to recommend adoption of an amended Rule 10 that incorporates provisions sought by the Petitioners as well as provisions crafted by the advisory committee to address issues raised by the Petitioners and others. At the final meeting, the committee discussed various changes to the rule—primarily directed to providing a clearer procedure for seeking and obtaining state court enforcement of tribal adjudications—that it would recommend to this Court. The committee’s recommended rule is set forth at pages 5–9 and the committee believes that it would be an improved version of Rule 10. Neither the rejection of the rule proposed by the Petitioner nor the adoption of this modified version was unanimously supported, and several competing concerns accompany the committee’s report on these issues.
2. The committee unanimously recommends modifications to Rules 2.01, 14.02(a), 14.03(d), 303(a), 301.01, 308.02, 361.02, 361.05, and 379.04 to correct minor issues such as cross-references, citations to now-amended statutes, and similar “housekeeping” matters.
3. The committee is aware of, and supports in principle, the recommendations of the Court’s Advisory Committee on Rules of Civil Procedure that the court

rules should be amended to modify the rules for counting days and specifying time limits in the rules. The committee has not undertaken to conduct the review of the General Rules of Practice, but notes that the timing rules in state court motion practice may require more extensive rule changes than were necessary in federal court. For example, the committee is not confident that the briefing schedules for motions can or should be uniformly conformed to the 7-day, 14-day, and 21-day schedule used in federal court. To the extent different rules are necessary, the committee is confident that they can be drafted without undue difficulty.

### **Effective Date**

The committee believes that any rule amendments related to Rule 10 should probably be made effective on January 1, 2018. The other recommended amendments could take effect at that time or at any earlier date if the Court deems it appropriate.

### **Style of Report**

The specific recommendations are reprinted in traditional legislative format, with new wording underscored and deleted words ~~struck through~~. New advisory committee comments are not underscored, except where several changes are made to existing probate and general rules committee comments, and these are explained in Recommendation 2 of this report.

Respectfully submitted,

MINNESOTA SUPREME COURT ADVISORY  
COMMITTEE ON GENERAL RULES OF  
PRACTICE

## **Recommendation 1:**

## **The Court Should Amend Rule 10 to Improve Its Operation**

### **Introduction**

The advisory committee's primary work during 2017 was to address the Petition of the Minnesota Tribal Court/State Court Forum to amend Rule 10 of the general rules dealing with tribal court orders and judgments. The committee discussed this proposal at each of its four meetings, and invited public participation both by written submissions and oral presentation at one advisory committee meeting. Thirteen interested individuals, including representatives of the Petitioners, spoke to the committee and a total of fifty written submissions were received. The committee heard from some of the interested individuals on more than one occasion. All written materials have been posted to a public-facing web page on the judicial branch website (<http://www.mncourts.gov/SupremeCourt/Court-Rules/Tribal-Court-Orders-Hearing-Submissions.aspx> ). As the webpage will eventually be retired, a copy of all such materials, along with the committee's meeting summaries, will be separately filed with the court so that the information is maintained for the record.

The issues raised in the Petition are neither easy nor clear-cut. The committee concluded, on balance but by a vote of 11-2, to recommend amendment of Rule 10 substantially in the form advanced by the Petitioners, though with some modifications. The committee's proposal retains several key pieces of the Petitioner's proposal. The first is replacing under the rule an exercise of "discretion," and its list of factors to consider, with a directive that courts "shall" recognize certain tribal orders, subject to exceptions that must be demonstrated. The committee purposefully avoided referring to this as a "presumption" thereby making it unnecessary to decide whether it is a vanishing or other type of presumption. The second key piece of the Petitioner's proposal being retained is deletion of the catch-all factor "any other factors in the interest of justice," to simplify application of the rule. As the committee notes in its proposed rule commentary below, however, the manifest injustice standard in existing Rule 1.02 remains applicable.

During consideration of the rule and proposed modifications to it, some committee members voiced concerns about the following issues:

**1. Substantive Nature of Changes.** In the view of some committee members, the changes sought are substantive in nature, and not procedural, and should therefore be left to the legislature. The legislative role—of both Congress and the Minnesota Legislature—is reflected in the statutes that already address recognition and enforcement of some tribal court adjudications. Some of these statutes are set forth in the text of amended Rule 10.01 (and were included in the advisory committee comments to the rule as initially adopted in 2003). This issue presents potential separation-of-powers concerns that the committee did not believe it was asked to resolve.

This has nothing to do with whether tribal court orders are valid or invalid, or whether tribal courts are structured in a fair and impartial way. Courts “must be mindful not to use judicial authority to enforce or restrain acts which lie within the executive and legislative jurisdictions,” and “when a question arises regarding the scope of the judiciary's inherent authority, courts must resolve all reasonable doubts in favor of a co-ordinate branch.” *State v. M.D.T.*, 831 N.W.2d 276, 280 (Minn. 2013) (district court did not have inherent judicial authority to expunge petitioner's criminal records that were held in the executive branch).

**2. Perception that Current Rule is Working as Intended.** The primary problem reported under the current rule appears to be lack of specific guidelines as to how the factors governing comity should be applied, delay associated with the judicial process, and perceived inconsistency of judicial decisions as a result of the case-by-case consideration of the comity factors. Some committee members concluded this result showed that the rule was operating as intended, with comity being an inherently flexible doctrine not susceptible to formulaic definition. Most committee members, however, concluded that a simpler approach that did not provide as many exceptions would be preferable.

**3. Breadth of the New Rule.** The proposed rule would create the same rules for enforcement of all types of tribal court adjudications, other than those subject to Rule 10.01 and 10.02 and the statutes enumerated there. Some committee members express concern about the wisdom of creating a single “one-size-fits-all” rule for all types of adjudications. The majority of the discussion before the committee focused on problems raised by tribal court orders involuntarily committing a person subject to tribal court jurisdiction to a treatment facility—orders that ultimately require some enforcement mechanism in the state courts. The same concerns may not be presented by tort cases where tribal courts and state courts have parallel or concurrent jurisdiction, or contract disputes between tribal and non-tribal litigants.

**4. Civil Commitment Orders.** The committee heard repeated testimony about difficulties in enforcement of civil commitment orders entered by tribal courts. The practice involving these orders has been something of a patchwork of procedures, often unwritten, and in some cases the result of the statutory provisions governing these tribal court orders. These concerns proved substantial enough that a majority of the committee recommends that the Court consider creation of a specific rule of procedure to govern the process for enforcing tribal orders committing individuals for treatment. See proposed Rule 10.02.

**5. Reciprocity.** Although not without some opposition, the committee ultimately agreed with the Petitioner’s proposal to retain the lack of reciprocity as an exception to mandatory recognition. The reciprocity requirement was intended to encourage state and tribal courts to give each other appropriate deference to adjudications.

The rule as recommended by the committee remains a rule grounded in comity, and is intended to foster the mutual respect of the state courts and tribal courts for adjudications rendered by their counterparts.



**Specific Recommendation**

If the Court determines that further amendment of Rule 10 of the Minnesota General Rules of Practice is appropriate, the committee recommends that the following amendments be made.

**GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS**

**RULE 10. TRIBAL COURT ORDERS AND JUDGMENTS**

**Rule 10.01. ~~When Tribal Court Orders and Judgments Must Be Given Effect Recognition Governed by Statute or Regulations.~~**

~~(a) Recognition Mandated by Law.~~ Where mandated by state or federal statute, The courts of this state shall follow applicable state and federal statutes, regulations, and rules that either mandate or provide procedures for recognition and enforcement of orders, judgments, and other judicial acts of the tribal courts of any federally recognized Indian tribe shall be recognized and enforced. Applicable statutes include but are not limited to:

- (1) Violence Against Women Act, 18 U.S.C. § 2265;
- (2) Indian Child Welfare Act, 25 U.S.C. § 1911;
- (3) National Indian Forest Resources Management Act, 25 U.S.C. § 3106;
- (4) American Indian Agricultural Resources Management Act, 25 U.S.C. § 3713;
- (5) Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B;
- (6) Minnesota Indian Family Preservation Act, Minn. Stat. § 260.771;
- (7) Uniform Interstate Family Support Act, Minn. Stat. §§ 518C.101-.905;
- (8) Uniform Custody Jurisdiction and Enforcement Act, Minn. Stat. § 518D.104;
- (9) Minnesota Uniform Foreign-Country Money Judgments Recognition Act, Minn. Stat. §§ 548.54-.63.

~~(b) Procedure.~~

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

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

41  
42 **Rule 10.02. Enforcement of Civil Commitment Orders.**

43           The enforcement of orders for civil commitment issued by tribal courts is  
44 governed by Minn. Stat. § 253B.212. The district court may enter an order enforcing a  
45 tribal court order in accordance with this rule.

46           (a) Civil commitment orders entered by the tribal courts of the Red Lake Band  
47 of Chippewa Indians and the White Earth Band of Ojibwe Indians shall be enforced in  
48 accordance with Minn. Stat. § 253B.212, subdivisions 1 or 1a.

49           (b) Civil commitment orders entered by the tribal courts that are subject to a  
50 contract for the care and treatment between a tribe (or the Indian Health Service of the  
51 United States Department of Health and Human Services for the benefit of members of  
52 a tribe) and the commissioner of human services shall be enforced in accordance with  
53 Minn. Stat. § 253B.212, subdivision 1b.

54           (c) For all other civil commitment orders entered by a tribal court, or in any  
55 case where directed by the court, the party seeking to enforce the order must proceed  
56 by petition to the Minnesota District Court under Rule 10.03, and in addition must  
57 serve a copy of that petition on each of the parties to the tribal court proceedings as  
58 well as the Minnesota Commissioner of Human Services and the director of the  
59 facility where the person is proposed to be committed. The court may determine when

60 a response to that petition is due and whether a hearing is required or permitted if  
61 requested, but shall not hear the matter without notice to all other interested parties  
62 except as allowed under Rule 3 of these Rules.

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64 **Rule 10.023. Enforceability of Other Tribal Court Orders and Judgments. Is**  
65 **Discretionary**

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

69 ~~(1) whether the party against whom the order or judgment will be used has~~  
70 ~~been given notice and an opportunity to be heard or, in the case of matters~~  
71 ~~properly considered ex parte, whether the respondent will be given notice and an~~  
72 ~~opportunity to be heard within a reasonable time;~~

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

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

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

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

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

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

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

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

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

92 (a) Applicability. Rule 10.03 applies to tribal court orders and judgments that are  
93 not subject to Rules 10.01 or 10.02(a) or (b).

94 (b) Procedure. ~~The court shall hold such hearing, if any, as it deems necessary~~  
95 ~~under the circumstances.~~ A party seeking enforcement of an order or judgment of the  
96 tribal court of any federally recognized Indian tribe that is not governed by Rules 10.01 or  
97 10.02 shall proceed by petition, or in a pending action by motion. That party must serve a  
98 copy of the petition or motion on each of the parties to the tribal court proceeding in  
99 which the judgment or order was entered. The court may determine how soon after  
100 service of the petition any response is due. The court may determine whether to hold a  
101 hearing on the petition. The court shall not determine the matter without notice to all  
102 other interested parties except as allowed under Rule 3 of these rules.

103 (c) Enforceability and Exceptions. Courts of this state shall recognize and  
104 enforce an order or judgment of a tribal court of record of a federally recognized Indian  
105 tribe, unless a party subject to the order or judgment demonstrates any of the following:

- 106
- 107 (1) the order or judgment is invalid on its face or no longer remains in  
108 effect;
- 109 (2) the tribal court lacked personal or subject-matter jurisdiction;
- 110 (3) the affected party was not afforded fundamental due process rights;
- 111 (4) the order or judgment was obtained by fraud, duress, or coercion;
- 112 (5) the order or judgment contravenes the public policy of this state; or
- 113 (6) the tribal court does not reciprocally recognize and enforce orders,  
114 judgments and decrees of the courts of this state.

115  
116 **Advisory Committee Comment—2017 Amendments**

117 Rule 10.01 moves the list of statutes out of the comments and into the rule  
118 itself to provide greater visibility. The list is non-exhaustive to allow for future  
119 enactments.

120 Former Rule 10.01(b) is deleted because the Violence Against Women Act  
121 is now expressly included in Rule 10.01 and the historic issues that prompted the  
122 former rule have been addressed by legislation. *See* Violence Against Women  
123 Reauthorization Act of 2013, Pub. L. No. 113-4, 127 Stat. 54 (March 7, 2013).

124 Rule 10.02 is a new rule intended to provide clear procedural guidance for  
125 enforcement by state courts of tribal court orders for civil commitment. The rule

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is structured to implement the requirements created by statute, Minn. Stat. § 253B.212. The primary purpose of the rule is to provide a requirement for notice and an opportunity to be heard for all parties to the tribal court proceeding as well as the Minnesota Commissioner of Human Services and the director of a facility where the person is proposed to be committed. This requirement applies in Rule 10.02(c) to commitment orders that are not otherwise covered by Rule 10.02(a) and 10.02(b).

Rule 10.03(b) recognizes two methods for asking a court for an order enforcing a tribal court adjudication. Most often, a petition seeking recognition will be necessary. The rule also allows a motion in a pending action. This would allow use of a tribal court adjudication, for example, in an existing action to establish res judicata or collateral estoppel based on the tribal court adjudication.

Rule 10.03(c) identifies specific factors under which a state court can decline to enforce a tribal court order of judgment. These factors restate those formerly set forth in Rule 10.02. Several of the former factors are combined under the broad category of Rule 10.03(c)(4), failure to afford “fundamental due process.” This is an inherently flexible standard, guided by the interests of the parties. The rule establishes that process is due, but does not define the specific process due. Courts may fairly look to what process would be due in analogous state or federal court proceedings. Common requirements of due process include notice of the proceedings, the right to heard, the right to appear and both examine and compel the attendance of witnesses, and the right to a fair hearing before an independent judge. The rule does not include the “catch-all” provision of former rule 10.02(10). This deletion is not intended to limit the ability of courts to consider an opposing party’s claim that enforcement is not in the interest of justice. *See* Minn. Gen. R. Prac. 1.02 (“A judge may modify the application of these rules to any case to prevent manifest injustice.”)

Rule 10.03(c)(6) retains the provision of the current version of Rule 10 allowing the court to consider reciprocity as part of its comity-based standard for enforcement of tribal court orders and judgments. The Minnesota Supreme Court has declined to make reciprocity a part of the showing needed to enforce a foreign judgment for child support payments, but has not rejected it as a proper consideration in all cases, or in the context of tribal court adjudications. *See Nicol v. Tanner*, 310 Minn. 68, 75–79, 256 N.W.2d 796, 800–02 (1976).

**Recommendation 2: The Rules Should Be Amended to Make Minor “Housekeeping” Changes**

**Introduction**

These recommended amendments address several rules. The changes here, though important, are generally non-substantive in nature or correct clerical or cross-reference issues with the current rules. The committee is unaware of any controversy concerning these changes.

**Specific Recommendation**

Rules 2.01(a), 14.02(a), 14.03(d), 303(a), 301.01, 308.02, 361.02, 361.05, and 379.04 should be amended as follows:

160 **Rule 2.01 Behavior and Ceremony in General**

161 (a) **Acceptable Behavior.** Dignity and solemnity shall be maintained in the  
162 courtroom. There shall be no unnecessary conversation, loud whispering, newspaper,  
163 electronic device or magazine reading or other distracting activity in the courtroom  
164 while court is in session. The court or presiding judicial officer has discretion to limit  
165 or prohibit the use of electronic devices in the courtroom. The court or presiding  
166 officer’s discretion is limited by Rule 4 of these Rules as it pertains to electronic  
167 devices used to photograph or record the proceedings. Permitted electronic devices must  
168 in all instances be set to silent mode, and must be used in an unobtrusive manner.

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171 **Rule 14.01 Mandatory and Voluntary E-File and E-Service**

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173 (b) **Scope and Effective Date of Mandatory and Voluntary E-File and E-**  
174 **Service.**

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176 (2) Prohibited E-Filing. The following documents may not be filed  
177 electronically:

178 (i) Wills deposited for safekeeping under Minnesota Statutes, section  
179 542.2-515 or original wills filed in probate cases under Rule 403(e); and

180 (ii) All documents in parental notification bypass proceedings under  
181 Minnesota Statutes, section 144.343.

182 \* \* \*

183 **Rule 14.02. Registration Process and Duty to Designate E-Mail Address for Service**

184 (a) **Becoming a Registered User.** Only a Registered User may electronically  
185 file or serve documents through the E-Filing System. To become a Registered User, a  
186 Select User, self-represented litigant, or non-party participant must complete the  
187 registration process, as established by the state court administrator, and designate an e-  
188 mail address (“designated e-mail address”) for receipt of electronic service and court  
189 notices. By registering with the Designated Provider and either electronically transmitting  
190 a document for filing in a case or designating an email address for receiving electronic  
191 service in the E-Filing System for the case, a Registered User consents to receive  
192 electronic service and court notices from the court and other Registered Users in the case  
193 through the E-Filing System at a designated e-mail address. This designated e-mail  
194 address may also be used by the court (but not other parties) to deliver notices by means  
195 other than the E-Filing System.

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197 **Rule 14.03 Filing and Service of Documents and Court Notices**

198 \* \* \*

199 (d) **Service by Registered Users.** Unless personal service is otherwise required  
200 by statute, these rules, other rules of court, or an order of the court, a Registered User  
201 shall serve all documents required or permitted to be served upon another party or person  
202 in the following manner:

203 (1) **Service on Registered Users.** Except as otherwise permitted in  
204 subpart (3) below, where the party or person to be served is a Registered User,  
205 who has either electronically filed a document in the case or designated an email  
206 address for receiving electronic service in the E-Filing system for the case and the  
207 Court has accepted the initial filing in the case, service shall be accomplished  
208 through the E-Filing System by utilizing the electronic service function of the E-  
209 Filing System.

210 (2) **Service on Other Parties or Participants.** Where the party or  
211 participant to be served is not a Registered User or has not either designated an  
212 email address for receiving electronic service in the E-Filing system for the case or  
213 electronically filed a document in the case but has agreed to service by electronic  
214 means outside the E-Filing System (such as by e-mail), service may be made in  
215 the agreed upon manner. The presiding judge or judicial officer may also order  
216 that service on the non-Registered User be made by electronic means outside of  
217 the E-Filing System. Where service by electronic means is not required or  
218 permitted, another method of service authorized under applicable rules or law  
219 must be used.

220 \* \* \*

221 **Advisory Committee Comment—2017 Amendments**  
222 Rule 14.03(d) is amended in 2017 to address issues relating to service using  
223 the e-filing system of the courts.  
224

## TITLE IV. RULES OF FAMILY COURT PROCEDURE

\* \* \*

### 225 **Rule 301.01 Applicability of Rules**

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227 (b) **Included Proceedings.** The following types of proceedings are referred to in  
228 these rules as Family Court Actions:

229 1. Marriage dissolution, legal separation, annulment proceedings, and child  
230 custody actions (Minnesota Statutes, chapter 518, ~~and section 260C.201, subd.~~  
231 ~~11(d)(1)(iii));~~

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### 233 **Rule 308.02 Statutorily Required Notices**

234 Where statutes require that certain subjects be addressed by notices attached to ~~in~~  
235 an order or decree, the notices may be set forth in an attachment and incorporated by  
236 reference. The attachment may be physically attached (e.g., by staple) if in paper form or,  
237 if in electronic form, it may be set forth in the same electronic document or in a separate  
238 electronic document that accompanies the order or decree when filed with or distributed  
239 by the court. Notwithstanding the absence of language referencing the attachments, they  
240 shall be deemed incorporated by reference.

241 \* \* \*



242 **Advisory Committee Comment—2017 Amendments**

243 The amendment to Rule 308.02 in 2017 establishes an electronic corollary  
244 to stapling an attachment to a signed order. When orders are signed without the  
245 attachments being included as a referenced attachment to an order or decree, the  
246 historical practice has been to simply staple the attachments to the orders when  
247 distributed by the court. When the order or decree is in electronic form, physically  
248 adding the attachments to the same document after a judge electronically signs  
249 will render the signature subject to challenge as the document will indicate that it  
250 has been changed. The electronic corollary to stapling the order to the already  
251 signed order or decree is to set it forth in a separate electronic document and add  
252 it to the case record, and send a notice to the parties that explains this.

253 **Rule 361.02 Exchange of Documents**

254 \* \* \*

255 **Subd. 4. Treatment of Confidential Information.** To retain privacy, restricted  
256 identifiers as defined in Rule 11 (such as Social Security numbers, employer  
257 identification numbers, financial account numbers) must be removed from any  
258 documents provided under this rule and may only be submitted on a separate Confidential  
259 Information Form as required in Rule 11. In addition, financial source documents as  
260 defined in Rule 11 (such as tax returns, wage stubs, credit card statements) must be  
261 submitted under a cover sheet entitled “Confidential ~~Sealed~~ Financial Source  
262 Documents” as required in Rule 11.

263 \* \* \*

264 **Rule 361.05 Filing of Discovery Requests and Responses Precluded**

265 Copies of a party’s request for discovery and any responses to those requests shall  
266 not be filed with the court unless:

- 267 (a) ordered by the child support magistrate;
- 268 (b) filed in support of any motion;
- 269 (c) introduced as evidence in a hearing; or
- 270 (d) relied upon by the magistrate when approving a stipulated or default order.

271 To retain privacy, restricted identifiers as defined in Rule 11 (such as Social  
272 Security numbers, employer identification numbers, financial account numbers) must be  
273 removed from any documents provided under this rule and may only be submitted on a  
274 separate Confidential Information Form as required in Rule 11. In addition, financial  
275 source documents as defined in Rule 11 (such as tax returns, wage stubs, credit card

276 statements) must be submitted under a cover sheet entitled “Confidential Sealed  
277 Financial Source Documents” as required in Rule 11.

278 \* \* \*

279 **Rule 379.04 Acknowledgment**

280 **Subdivision 1. Generally.** Each complaint or motion served and filed in the  
281 expedited process shall set forth an acknowledgment by the party or the party’s attorney.  
282 By presenting to the court (whether by signing, filing, submitting, or later advocating) a  
283 pleading, written motion, or other document, an attorney or self-represented litigant party  
284 is certifying to the best of the person’s knowledge, information and belief:

285 \* \* \*

286 **TITLE V. PROBATE RULES**

287 \* \* \*

288 **RULE 403. DOCUMENTS**

289 \* \* \*

290 **(e) Original Will Deposit.** Where a will or codicil is to be filed with the court  
291 in any probate proceeding under these rules, the party with possession of the original  
292 will or codicil shall promptly deposit the original with the court. Alternatively, an  
293 authenticated copy of a will probated in another jurisdiction may be deposited with the  
294 court.

295 **Advisory Committee Comment—2017 Amendments**

296 Rule 403(e) is new in 2017 and appears to reflect near statewide practice  
297 designed to preserve what often becomes a central piece of evidence in probate  
298 cases. Statutes also appear to direct the submission of the original paper  
299 document. Minn. Stat. §§ 524.3-301 (informal probate); 524.3-402 (formal  
300 probate); ,and 524.2-516 (upon request).

\* \* \*

301

**Recommendation 3:       The Committee Agrees with the  
Recommendation that the Rules Should be  
Amended to Modify the Timing Mechanisms  
Under the Rules, but Has Not Reviewed All the  
General Rules' Timing Provisions.**

**Introduction**

The advisory committee is aware that the Court's Advisory Committee on the Rules of Civil Procedure is in the process of recommending changes in timing to remove differences in the counting of days for long and short periods and adopt time periods using a 7-, 14-, 21-, and 28-day system. Similar changes had been made in the federal rules in 2009 and were preliminarily endorsed by this committee at that time.

This committee will be ready to make specific recommendations to the Court as to how these amendments could best be implemented in the general rules should the Court request that advice.