

New Minnesota Court Rules: Overview of the Civil, General, and Access Rules

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2015 Rules Changes

- Changes Effective July 1, 2015
- RTFR = Read The Friendly Rules!



Civil Rules What is NOT Changing

- Commencement of the action
- E-Filing and E-Service do NOT change commencement of civil actions
- Still must serve conventionally to commence an action

Minn. R. Civ. P. 3.01, 5.02(b)



New Civil Rules: Proposed Orders

- Proposed orders that are eFiled will not be file stamped (so judges can make use of them)
- General Rules committee considered various proposals, including emailing the orders to a chambers email addresses in Word format
- No certified copies of proposed orders can be provided

Minn. R. Civ. P. 5.04(c), 5.06; Minn. Gen. R. Prac. 14.03(b), 14.07



New Civil Rules: No Discovery Filing

- Discovery filings can be rejected by court staff
- Still allow attachments to affidavits in support of motions, etc.,
- but no dumping of discovery into the court files unless presiding judge authorizes it
- SCAO Legal is advising court staff to go slow and double check with Judge

Minn. R. Civ. P. 5.04(c), 5.06



New Civil Rules: Restricted Identifiers

- Restricted Identifiers defined Minn. Gen. R. Prac. 11
- Ultimate sanction of rejection of filing considered but not adopted by civil and general rules committees
- New discrepancy notice/sanction process for these in general rule 11 discussed later
 - Judge decides what impact a Stricken document will have

Minn. R. Civ. P. 5.04; Gen. R. Prac. 11.04



New Civil Rules: Restricted Identifiers

- Civil rule 11 now includes certification of compliance with General Rule 11,
 - violations of General Rule 11 can also be sanction issue under civil rule 11
 - No waiting 21 days to seek relief under Civil Rule 11 when Restricted Identifier violation of General Rule 11
 - Separate but not exclusive remedies

Minn. R. Civ. P. 5.04; Gen. R. Prac. 11.04



New Civil Rule: Notarization Alternative

- 2014 statute allows for non-notarized signatures
- BOTH NOTARIZED AND NON-NOTARIZED SIGNATURES ALLOWED
- Effective date: July 1, 2015 statewide
- Exceptions: admissions and settlements in Adoption and CHIPS cases require notarization

Minn. Stat. § 358.116; Minn. R. Civ. P. 33.01, 54.04, 56.05, Minn. Gen. R. Prac. 115; Minn. Juv. Prot. P. R. 35.03, subds. 1, 2; Minn. Adop. P. R. 19.03.



New Civil rule: Notarization Alternative

- What is the magic language?
- signature is affixed immediately below the following words: “I declare under penalty of perjury that everything I have stated in this document is true and correct.”
- Also, the date of signing and the county and state where the document was signed shall be noted on the document.

Minn. Stat. § 358.116; Minn. Gen. R. Prac. 115; Minn. Juv. Prot. P. R. 35.03, subds. 1, 2; Minn. Adop. P. R. 19.03.



New Civil Rule: Notarization Alternative

- Discussed extensively by civil rules committee
- Fraud concerns
- Possible solutions include providing opposing party extra time to locate alleged signing person to confirm.
- See, e.g., *Pinson v. U.S. Dep't of Justice*, No. CV 12-1872 (RC), 2014 WL 4829309, at 6 (D.D.C. Sept. 30, 2014)



New Civil Rule: Interstate Subpoena

- MN subpoena based on “foreign subpoena” issued by a court of record of any other United States jurisdiction
- The Minnesota subpoena incorporates the foreign subpoena’s terms
- AKA: Uniform Interstate Deposition and Discovery Act
- Uniform act makes other jurisdiction case law useful

Minn. R. Civ. P. 45.06



New General Rule: Mandatory e-Filers

- e-Filing mandatory for
 - attorneys (except attorneys representing Indian tribes in CHIPS and Adoption cases),
 - government agencies (including sheriff, social workers), and
 - guardians ad litem
- Effective 7/1/15 in pilot counties and 7/1/16 statewide

Minn. Gen. R. Prac. 14.01(b)(1); Minn. R. Juv. Prot. P. 3.06; Minn. R. Adop. P. 3.09



New General Rule: Voluntary e-Filing

- All filers who aren't mandated to e-file can choose to e-file
- Once you're in, you're in, unless judge orders otherwise
- Judge can mandate use of e-filing by order for most participants
- Judge can Kick eFiler out of e-filing if they misuse it

Minn. Gen. R. Prac. 14.01(b)



Want an Exemption from eFiling?

- Judges rule on requests for exemptions from eFiling
- Rarely granted in pilot sites
- Recommend courts have a process to address situation where mandatory eFiler tries to submit paper documents

Minn. Gen. R. Prac. 14.01(b)



Don't eFile These

- wills deposited for safekeeping/parental notification bypass
- Trial exhibits
- Cover letters that merely introduce the contents of a filing
- Letters presenting formal requests such as for hearing, for special handling, etc. should be e-Filed as “Correspondence.”
- Don't e-File ICMC Data Sheets (Family Court)

Judicial Council Policy 520.1 § IV; Minn. Gen. R. Prac. 14.01(b)



eFile Timing

- Upon transmittal to EFS, unless not accepted by court
- Transmittal date and time stamped upon acceptance
- Limited rejection reasons (e.g. discovery, discussed above)
- Proposed orders not stamped

Minn. Gen. R. Prac. 14.03(d); Minn R. Civ. P. 5.04



eFile Document Format

- All documents filed with the court, and all exhibits offered at trial, must have consecutive page numbers.

Minn. Gen. R. Prac. 16.

- All eFiled documents must comply with the formatting requirements in the *Minnesota District Court Registered User Guide for Electronic Filing* on mncourts.gov.

Minn. Gen. R. Prac. 14.03(g).

- NOT rejection reasons



Non-conforming Document

- May bring motion to file non-conforming format when:
 - Not feasible to convert a document to an authorized electronic format by scanning, imaging, or other means, or
 - Document cannot reasonably be transmitted through the E-Filing System due to document's technical nature and/or size
- File motion electronically, and if granted, serve non-conforming document conventionally.

Minn. Gen. R. Prac. 14.03(g).



New General Rule: In Camera Reviews

- Party must seek court permission, with notice to other party, before submitting documents for “in camera” review
- Submit document outside eFiling System by postal mail to the judge OR
- If permitted by judge, transmit to designated email address
- All in camera review documents must be sealed and retained as part of the record unless otherwise directed by the presiding judge.

Minn. Gen. R. Prac. 14.06



Fax is Not Dead

- Facsimile filing continues for those not mandated to eFile
Minn. Gen. R. Prac. 14.02(f)



eService

- Registered Users must use EFS to serve other Registered Users
- Exceptions: Discovery disclosures; consent (e.g. email)
- The record of service in EFS constitutes proof of service – there is no need to file an affidavit of service.
- an affidavit of service is required for conventional service.

Minn. Gen. R. Prac. 14.03(d).



eService Sign-Up

- All eFilers must Register to use the eFiling system AND
- In each case eFiler must “sign-up” for eService by designating email address for receipt of service
- Many forget to Sign-Up for eService on each case
- Judge may have to order Sign-Up or establish alternatives and/or encourage compliance via sanctions

Minn. Gen. R. Prac. 14.01(b)



More eService Exceptions

- Commencement of an ordinary civil action requires personal service, publication, or acknowledged mail service of summons and complaint.
- Summons, and any counterclaim on the defendant, in conciliation court must be served by mail or personal service.
 - Minn. Gen. R. Prac. 14.02(b)(5)(iii); 419; 508(d); Minn. R. Civ. P. 5.02(b); Minn. Comm. & Tr. Act R. 8.



More eService Exceptions

- Petitions to appoint guardians under MINN. STAT. § 524.5-308 or conservators under MINN. STAT. § 524.5-404 require personal service.
- Summons, pre-petition screening report, petition, and examiner's supporting statement in a commitment proceeding, require personal service upon the respondent .
 - Minn. Gen. R. Prac. 14.02(b)(5)(iii); 419; 508(d); Minn. R. Civ. P. 5.02(b); Minn. Comm. & Tr. Act R. 8.



New eService Timing

- Joint eService/eFile command; eService part is complete upon completion of the electronic transmission of the document to the E-Filing System notwithstanding whether the document is subsequently rejected for filing by the court administrator.
- Change from prior practice where eService did not occur unless and until acceptance of filing

Minn. Gen. R. Prac. 14.03(d).



New General Rule: Service by Court Staff

- Court staff have discretion to serve documents by the most appropriate means, including:
- Service through eFS System
- Personal service at the hearing
- Service by e-mail
- Service by mail

Minn. Gen. R. Prac. 14.02(f); Minn. R. Juv. Prot. P. 10.03, subd. 1



New General Rule: Restricted Identifiers

- Filers still must remove Restricted Identifiers from a publicly accessible document, and if needed by the court, submit the identifier on a separate Confidential form 11.1
- If not, and court staff becomes aware of it, document must be placed on non-public status and filer sent a discrepancy notice.

Minn. Gen. R. Prac. 11.04



New General Rule: Restricted Identifiers

- Filer has 21 days from discrepancy notice to file a properly segregated document or Motion for relief.
- If filer wants segregated version to relate back to the original document filing date, s/he must file a motion to relate back.
- If no properly segregated version filed within 21 days or Motion for relief, document stays confidential and court staff place notation in MNCIS that the document is stricken.

Minn. Gen. R. Prac. 11.04



New General Rule: Restricted Identifiers

- STRICKEN?
- Court staff:
 - merely enters in ROA that the document is “Stricken”
 - Does not delete or remove document
- Judge decides the impact on the case/issues
- Document remains confidential

Minn. Gen. R. Prac. 11.04



New General Rule: Restricted Identifiers

- Applicable fee?
- Motion fee if seeking relation back and not exempt from such fee
- Rule does not mandate any other fee
- Legislature/Judicial Council decide whether there is any other applicable fee

Minn. Gen. R. Prac. 11.04



Similar CHIPS Procedures

- CHIPS and Adoption Rules also have additional procedures similar to General Rule 11 regarding Restricted Identifiers and Financial Source Documents.
- Confidential information must be submitted on a separate confidential information form 11.3
- Confidential documents must be submitted under confidential documents cover sheet form 11.4
- **Separate training on CHIP procedures**

Minn. Juv. Prot. P. R. 8.04, subd. 5



New Access Rules: Day Forward Only

- Access to records changes apply to documents filed/issued on or after 7/1/15
- What happens to cases pending on July 1, 2015?
- Once new document filed, court staff will adjust case security, up or down, as applicable
- Individual documents filed before July 1, 2015, will not be adjusted unless it is to make them less accessible



eFiler's Responsibilities

- Correctly classify documents for access purposes when efilng
- Remove unneeded Restricted Identifiers or place on separate confidential sheet
- File Financial Source Documents with correct cover sheet
- Avoids sanctions, ethics issues



Access Changes Day Forward Only

- Example: pending post adjudication paternity case
- New document filed July 2, 2015
- Court staff appropriately classify newly filed document for access purposes
 - PUB1 or more secure for court generated items
 - PUB2 or more secure for party submitted items



Access Changes Day Forward Only

- Example: pending post adjudication paternity case, cont.
- Court staff review ROA to ensure that it does not contain non-public items, remove or redact nonpublic items and change case security to public
- Court staff do **NOT** change Document Security to less secure for documents filed before July 1, 2015



Protecting the Child: No Public Access

- All records in proceedings for the civil commitment of a minor are inaccessible to the public.

MINN. R. PUB. ACC. 4, subd. 1(o)(2)(H); MINN. CIV. COMM. R. 21(e).

- All CHIPS records in cases in which a child is a party are inaccessible to the public (e.g., truancy, runaway, sexually exploited child, and party by intervention).

MINN. R. PUB. ACC. 4, subd. 1(o)(2)(D); MINN. JUV. PROT. P. R. 8.04, subd. 4(c), 21.01, subd. 2 , 23.



Public Transcript Non-Redactions

Unless otherwise directed by presiding judge, public proceeding transcript need not redact:

- Restricted identifiers
- Specific data elements protected by laws, court rules or orders, including CHIPS Confidential Information (discussed above)
- Sealed records

Minn. R. Pub. Acc. 4, subd. 4.



Protecting Medical Records

- non-public unless formally admitted into evidence in a testimonial-type hearing or trial,
- Exception: medical records in civil commitment cases will remain non-public even when admitted into evidence.
- Can discuss contents in briefs, motions, decisions, etc., but no restricted identifiers, minor victim of sexual conduct identifiers, sealed data, or CHIPS confidential information

Minn. R. Pub. Acc. 4, subd. 1(f);



Referencing Other Confidential Docs

- Can discuss contents in public briefs, motions, etc., but no restricted identifiers, minor victim of sexual conduct identifiers, sealed data, or CHIPS confidential information

Minn. R. Pub. Acc. 4, subd. 1(f);

- Previously applied only to medical records in commitment cases
- Expanded to all records filed on or after July 1, 2015



Harassment

- Harassment restraining orders now treated same as orders for protection
 - Replaces case-by-case orders designed to achieve same result
 - Law enforcement information forms (HAR103 and OFP105) also non-public

Minn. R. Pub. Acc. 4, subd. 1(a).

Wills

- A will deposited for safekeeping during a testator's lifetime is maintained as non-public until proof of death is presented.
- Upon proof of death, existence of will may be publicly disclosed
- Court may transmit will to appropriate court and may order that copies be provided to appropriate persons

Minn. R. Pub. Acc. 4, subd. 1(a), (i).



Call Court Before You File These

- Administrative warrants for inspections (safety and health, fire, liquor, and housing laws)
- Motion to Enforce or Quash County Attorney Subpoena under Minn. Stat. § 388.23
- Release of Video Recording for Use in Administrative Hearing under Minn. Stat. § 611A.90

Minn. R. Pub Acc. 4, subd. 1(j), (k) and (l).



Remote Access

- Technology is still being developed
- For most public cases, documents will eventually be remotely accessible
- Will apply to documents filed on or after 7/1/15
- **IMPORTANT:** Court staff and eFilers need to apply new security classifications starting 7/1/15 in every county



Remote Access

Type of Remote Access	Case Type (document security changes needed)
No Remote Access	D-16, ⁱ CHIPS (change C2 to P2, so that will be available at MPA Courthouse)
ROA (register of actions, calendars, index, and judgment docket) only	civil commitment (change P1 to P2, so documents are only available at MPA Courthouse; make civil commitments of minors a confidential case type)



Remote Access

Type of Remote Access	Case Type (document security changes needed)
ROA and court-generated documents	family, post-adjudication paternity (for post-adjudication paternity, change from C to P2 and P1)
ROA, court-generated documents, and party-generated documents	civil, criminal (the name searching limitation on pending criminal cases remains; change P2 to P1)
NOTE: If the public calls the court for pending criminal case file numbers, staff need not provide them. Direct the caller to any courthouse to access the public name index statewide with no name search limitation.	



Want More?

- For additional detail, consult rules promulgation orders posted on main webpage

www.mncourts.gov/?page=5112

- **Questions about the Rules?**

Contact Legal Counsel Division