Minnesota General Rules of Practice for the District Courts

with amendments effective November 10, 2015

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RULE 1. SCOPE OF RULES; MODIFICATION; SERVICE ON PARTIES; APPLICABILITY TO SELF-REPRESENTED LITIGANTS

Rule 1.01 Scope

These rules shall apply in all trial courts of the state. These rules may be cited as Minn. Gen. R. Prac. ___.

Rule 1.02 Modification

A judge may modify the application of these rules in any case to prevent manifest injustice.

Rule 1.03 Service on Parties

When a document is to be served on a party under these rules, service shall be made on the party's lawyer if represented, otherwise on the self-represented litigant directly.

(Amended effective July 1, 2015.)

Rule 1.04 Responsibility of Self-Represented Litigants

Whenever these rules require that an act be done by a lawyer, the same duty is required of a self-represented litigant.

(Amended effective July 1, 2015.)

Cross Reference: Minn. R. Civ. P. 5.02, 83.

RULE 2. COURT DECORUM; CONDUCT OF JUDGES AND LAWYERS

Rule 2.01 Behavior and Ceremony in General

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

(b) Flag. The flags of the United States and the State of Minnesota shall be displayed on or in close proximity to the bench when court is in session.

(c) Formalities in Opening Court. At the opening of each court day, the formalities to be observed shall consist of the following: court personnel shall direct all present to stand, and shall say clearly and distinctly: Everyone please rise! The District Court of the _____ Judicial District, County of _____, State of Minnesota is now open. Judge _____ presiding. Please be seated. (Rap gavel or give other signal immediately prior to directing audience to be seated.)

At any time thereafter during the day that court is reconvened court personnel shall give warning by gavel or otherwise, and as the judge enters, cause all to stand until the Judge is seated.

(The above rule (to) or (to not) apply to midmorning and midafternoon recesses of the court at the option of the judge.)

(d) The Jury. Jurors shall take their places in the jury box before the judge enters the courtroom. Court personnel shall assemble the jurors when court is reconvened.

When a jury has been selected and is to be sworn, the presiding judge or clerk shall request everyone in the courtroom to stand.

(e) Court Personnel. Court personnel shall maintain order as litigants, witnesses and the public assemble in the courtroom, during trial and during recesses. Court personnel shall direct them to seats and refuse admittance to the courtroom in such trials where the courtroom is occupied to its full seating capacity.

(f) Swearing of Witnesses. When the witness is sworn, court personnel shall request the witness' full name, and after being sworn, courteously invite the witness to be seated on the witness stand.

(g) Manner of Administration of Oath. Oaths and affirmations shall be administered to jurors and witnesses in a slow, clear, and dignified manner. Witnesses should stand near the bench, or witness stand as sworn. The swearing of witnesses should be an impressive ceremony and not a mere formality.

(Amended effective July 1, 2015.)

Advisory Committee Comment—2015 Amendments

The amendments to Rule 2.01 bring the rule up to date with respect to modern distractions. The use of hand-held devices (such as mobile phones, smart phones, and laptop computers), or myriad other devices that are now ubiquitous can be just as distracting or disruptive as newspaper reading or loud conversation. The rule permits the presiding judge to place appropriate restrictions on the use of these devices. The rule incorporates the limitations of Rule 4 of these rules on the use of devices for audio- or video-recording of court proceedings.

Rule 2.02 Role of Judges

(a) Dignity. The judge shall be dignified, courteous, respectful and considerate of the lawyers, the jury and witnesses. The judge shall wear a robe at all trials and courtroom appearances. The judge shall at all times treat all lawyers, jury members, and witnesses fairly and shall not discriminate on the basis of race, color, creed, religion, national origin, sex, marital status, sexual orientation, status with regard to public assistance, disability, or age.

(b) Punctuality. The judge shall be punctual in convening court, and prompt in the performance of judicial duties, recognizing that the time of litigants, jurors and attorneys is of value and that habitual lack of punctuality on part of a judge justifies dissatisfaction with the administration of the business of the court.

(c) Impartiality. During the presentation of the case, the judge shall maintain absolute impartiality, and shall neither by word or sign indicate favor to any party to the litigation. The judge shall be impersonal in addressing the lawyers, litigants and other officers of the court.

(d) Intervention. The judge should generally refrain from intervening in the examination of witnesses or argument of counsel; however, the court shall intervene upon its own initiative to prevent a miscarriage of justice or obvious error of law.

(e) Decorum in Court. The judge shall be responsible for order and decorum in the court and shall see to it at all times that parties and witnesses in the case are treated with proper courtesy and respect.

(f) Accurate Record. The judge shall be in complete charge of the trial at all times and shall see to it that everything is done to obtain a clear and accurate record of the trial. It is a duty to see that the witnesses testify clearly so that the reporter may obtain a correct record of all proceedings in court.

(g) Comment Upon Verdict. The judge should not comment favorably or adversely upon the verdict of a jury when it may indirectly influence the action of the jury in causes remaining to be tried.

(Amended effective July 1, 2015.)

Advisory Committee Comment—2015 Amendments

Rule 2.02(a) is amended to refer to "sexual orientation" rather than "sexual preference." This change is consistent with terms used in legislative definitions of prohibited discriminatory conduct. See, e.g. Minn. Stat. §§ 363A.02 (Minnesota Human Rights Act); § 82B.195, subd. 3 (vii) (real estate appraisers).

Rule 2.03 Role of Attorneys

(a) Officer of Court. The lawyer is an officer of the court and should at all times uphold the honor and maintain the dignity of the profession, maintaining at all times a respectful attitude toward the court.

(b) Addressing Court or Jury. Except when making objections, lawyers should rise and remain standing while addressing the court or the jury. In addressing the court, the lawyer should refer to the judge as "Your Honor" or "The Court." Counsel shall not address or refer to jurors individually or by name or occupation, except during voir dire, and shall never use the first name when addressing a juror in voir dire examination. During trial, counsel shall not exhibit familiarity with the judge, jurors, witnesses, parties or other counsel, nor address them by use of first names (except for children).

(c) Approaching Bench. The lawyers should address the court from a position at the counsel table. If a lawyer finds it necessary to discuss some question out of the hearing of the jury at the bench, the lawyer may so indicate to the court and, if invited, approach the bench for the purpose indicated. In such an instance, the lawyers should never lean upon the bench nor appear to engage the court in a familiar manner.

(d) Non-Discrimination. Lawyers shall treat all parties, participants, other lawyers, and court personnel fairly and shall not discriminate on the basis of race, color, creed, religion, national origin, sex, marital status, sexual orientation, status with regard to public assistance, disability, or age.

(e) Attire. Lawyers shall appear in court in appropriate courtroom attire.

(Amended effective July 1, 2015.)

Advisory Committee Comment--1997 Amendment

The majority of this rule was initially derived from the former Rules of Uniform Decorum. The adoption of these rules in 1991 included these provisions in Part H, Minnesota Civil Trialbook. They are recodified here to make it clear that the standards for decorum, for lawyers and judges, apply in criminal as well as civil proceedings.

The Task Force on Uniform Local Rules considered the recommendations of the Minnesota Supreme Court Task Force on Gender Fairness, and recommended Rule 2.03(d) be adopted to implement, in part, the recommendations of that body. See Minnesota Supreme Court Task Force for Gender Fairness in the Courts, 15 Wm. Mitchell L. Rev. 825 (1989). The rule specifically incorporated the definition of discriminatory conduct in the Minnesota Human Rights Act, Minnesota Statutes, section 363.01, subd. 1(1) (1990). The Task Force added to the statutory definition of discrimination the category of sexual preference.

The inclusion of these provisions in the rules is intended to establish uniform standards to be followed in most cases. Nothing in this rule limits the power of the court to modify the rules or their application in a particular case. See Rule 1.02. It is not

intended that the failure to follow these rules, in itself, would be the subject of claimed error in the conduct of the trial court proceedings in the absence of aggravating circumstances, such as repeated violations or persistent violation after objections by a party or direction from the court.

Advisory Committee Comment—2015 Amendments

Rule 2.03(d) is amended to refer to "sexual orientation" rather than "sexual preference." This change is consistent with terms used in legislative definitions of prohibited discriminatory conduct. See, e.g., Minn. Stat. § 363A.02 (Minnesota Human Rights Act); §§ 82B.195, subd. 3 (vii) (real estate appraisers).

RULE 3. EX PARTE ORDERS

Rule 3.01 Notice

In any application for ex parte relief, the court may require a demonstration or explanation of the efforts made to notify affected parties, or the reasons why such efforts were not made. The reasons supporting ex parte relief should be recited in the order.

Rule 3.02 Prior Application

Before an ex parte order is issued, an affidavit shall be submitted with the application showing:

(1) No prior applications for the relief requested or for a similar order have been made; or,

(2) The court and judge to whom the prior application was made; the result of the prior application; and what new facts are presented with the current application. Failure to comply with this rule may result in vacation of any order entered.

Task Force Comment--1991 Adoption

Rule 3.01 is new, although it codifies the practice of the vast majority of judges.

Rule 3.02 is derived from Rule 10 of the Code of Rules for the District Courts. This rule applies in all trial court proceedings, including criminal actions. The Minnesota Supreme Court Advisory Committee on Criminal Procedure joins the Task Force in recommending that this rule apply in all trial court proceedings.

The review of the efforts made to provide notice is an integral part of permitting ex parte relief to be granted. The rule does not specify what showing must be made and does not state how it is to be made because the Task Force recognizes that a wide variety of circumstances apply to the seeking and obtaining of ex parte orders. In some circumstances, there may be proper reasons to justify ex parte relief even if notice could be given, and in those limited instances, a showing of those reasons should be made and reviewed by the court. The more common situation will involve description of the efforts made to give notice. The court may require the information in written or affidavit form,

may take oral testimony, or may base the decision on the statements of counsel, either in person or by telephone. The Task Force also believes that if notice to affected parties is deemed unnecessary, the order should state the facts supporting ex parte relief without notice.

RULE 4. PICTURES AND VOICE RECORDINGS

Rule 4.01. General Rule

Except as set forth in this rule, no pictures or voice recordings, except the recording made as the official court record, shall be taken in any courtroom, area of a courthouse where courtrooms are located, or other area designated by order of the chief judge made available in the office of the court administrator in the county, during a trial or hearing of any case or special proceeding incident to a trial or hearing, or in connection with any grand jury proceedings.

This rule may be superseded by specific rules of the Minnesota Supreme Court relating to use of cameras in the courtroom for courtroom security purposes, for use of videotaped recording of proceedings to create the official recording of the case, or for interactive video hearings pursuant to rule or order of the supreme court. This Rule 4 does not supersede the provisions of the Minnesota Rules of Public Access to Records of the Judicial Branch.

Rule 4.02 Exceptions

(a) A judge may authorize the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration.

(b) A judge may authorize the broadcasting, televising, recording or photographing of investitive, ceremonial or naturalization proceedings.

(c) A judge may authorize, with the consent of all parties in writing or made on the record prior to the commencement of the trial in criminal proceedings, and without the consent of all parties in civil proceedings, the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:

(i) There shall be no audio or video coverage of jurors at any time during the trial, including *voir dire*.
(ii) There shall be no audio or video coverage of any witness who objects thereto in writing or on the record before testifying.
(iii) Audio or video coverage of judicial proceedings shall be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.
(iv) There shall be no audio or video coverage within the courtroom during recesses or at any other time the trial judge is not present and presiding.

(v) During or preceding a jury trial, there shall be no audio or video coverage of hearings that take place outside the presence of the jury. Without limiting the generality of the foregoing sentence, such hearings in criminal proceedings would include those to determine the admissibility of evidence, and those to determine various motions, such as motions to suppress evidence, for judgment of acquittal, *in limine* and to dismiss. This provision does not prohibit audio or video coverage of appropriate pretrial hearings in civil proceedings, such as hearings on dispositive motions.

(vi) There shall be no audio or video coverage in cases involving child custody, marriage dissolution, juvenile proceedings, child protection proceedings, paternity proceedings, civil commitment proceedings, petitions for orders for protection, motions to suppress evidence, police informants, relocated witnesses, sex crimes, trade secrets, undercover agents, and proceedings that are not accessible to the public.

(d) **Criminal proceedings: pilot project**. Notwithstanding the lack of consent by the parties, for purposes of the pilot project authorized by order of the supreme court, upon receipt of notice from the media pursuant to Rule 4.03(a), a judge must, absent good cause, allow audio or video coverage of a criminal proceeding occurring after a guilty plea has been accepted or a guilty verdict has been returned. To determine whether there is good cause to prohibit coverage of the proceeding, or any part of it, the judge must consider (1) the privacy, safety, and well-being of the participants or other interested persons; (2) the likelihood that coverage will detract from the dignity of the proceeding; (3) the physical facilities of the court; and, (4) the fair administration of justice. Coverage under this paragraph is subject to the following limitations:

(i) No audio or video coverage is permitted when a jury is present, including for hearings to determine whether there are aggravating factors that would support an upward departure under the sentencing guidelines, or new pretrial and trial proceedings after a reversal on appeal or an order for a new trial.

(ii) No coverage is permitted at any proceeding held in a problem-solving court, including drug courts, mental health courts, veterans courts, and DWI courts.

(iii) No coverage is permitted in cases involving charges of criminal sexual conduct brought pursuant to Minn. Stat. §§ 609.293-.352, or in cases involving charges of family or "domestic" violence as defined in Minnesota Statutes section 609.02, subdivision 16.

(iv) No audio or video coverage is permitted of a testifying victim, as defined in Minn. Stat. § 611A.01(b), unless that person affirmatively acknowledges and agrees in writing before testifying to the proposed coverage.

(v) Audio or video coverage must be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.

(vi) No audio or video coverage within the courtroom is permitted during recesses or at any other time the trial judge is not present and presiding.

(Amended effective November 10, 2015.)

Rule 4.03. Procedures Relating to Requests for Audio or Video Coverage of Authorized District Court Proceedings

The following procedures apply to audio and video coverage of civil district court proceedings where authorized under Rule 4.02(c), or in criminal proceedings subject to the pilot project authorized by supreme court order and Rule 4.02(d):

(a) **Notice**. Unless notice is waived by the trial judge, the media shall provide written notice of their intent to cover authorized district court proceedings by either audio or video means to the trial judge, all counsel of record, and any parties appearing without counsel as far in advance as practicable, and at least 10 days before the commencement of the hearing or trial. A copy of the written notice shall also be provided to the State Court Administrator's Court Information Office. The media shall also notify their respective media coordinator, identified as provided under part (e) of this rule, of the request to cover proceedings in advance of submitting the request to the trial judge, if possible, or as soon thereafter as possible.

(b) **Objections**. If a party opposes audio or video coverage, the party shall provide written notice of the party's objections to the presiding judge, the other parties, and the media requesting coverage as soon as practicable, and at least 3 days before the commencement of the hearing or trial in cases where the media have given at least 10 days' notice of their intent to cover the proceedings. The judge shall rule on any objections and make a decision on audio or video coverage before the commencement of the hearing or trial. However, the judge has the discretion to limit, terminate, or temporarily suspend audio or video coverage of an entire case or portions of a case at any time.

(c) **Witness Information and Objection to Coverage**. At or before the commencement of the hearing or trial in cases with audio or video coverage, each party shall inform all witnesses the party plans to call that their testimony will be subject to audio or video recording unless the witness objects in writing or on the record before testifying.

(d) **Appeals**. No ruling of the trial judge relating to the implementation or management of audio or video coverage under this rule shall be appealable until the underlying matter becomes appealable, and then only by a party.

(e) Media Coordinators. Media coordinators for various areas of the state shall be identified on the main state court web site. The media coordinators shall facilitate interaction between the courts and the electronic media regarding audio or video coverage of authorized district court proceedings. Responsibilities of the media coordinators include:

(i) Compiling basic information (e.g., case identifiers, judge, parties, attorneys, dates and coverage duration) on all requests for use of audio and video coverage of authorized trial court proceedings for their respective court location(s) as identified on the main state court web site, and making aggregate forms of the information publicly available;

(ii) Notifying the Minnesota Court Information Office of all requests for audio and video coverage of trial court proceedings for their respective court location(s) as identified on the main state court web site;

(iii) Explaining to persons requesting video or audio coverage of trial court proceedings for their respective court location(s) the local practices, procedures, and logistical details of the court related to audio and video coverage;

(iv) Resolving all issues related to pooling of cameras and microphones related to video or audio coverage of trial court proceedings for their respective court location(s).

(Amended effective November 10, 2015.)

Rule 4.04. Technical Standards for Photography, Electronic and Broadcast Coverage of Judicial Proceedings

The trial court may regulate any aspect of the proceedings to ensure that the means of recording will not distract participants or impair the dignity of the proceedings. In the absence of a specific order imposing additional or different conditions, the following provisions apply to all proceedings.

(a) Equipment and personnel.

(1) Not more than one portable television or movie camera, operated by not more than one person, shall be permitted in any trial court proceeding.

(2) Not more than one still photographer, utilizing not more than two still cameras with not more than two lenses for each camera and related equipment for print purposes, shall be permitted in any proceeding in any trial court.

(3) Not more than one audio system for radio broadcast purposes shall be permitted in any proceeding in any trial court. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court. If no technically suitable audio system exists in the court, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the trial judge.

(4) Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the trial judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the trial judge shall exclude from a proceeding all media personnel who have contested the pooling arrangement.

(b) Sound and light.

(1) Only television camera and audio equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. Excepting modifications and additions made pursuant to Paragraph (e) below, no artificial, mobile lighting device of any kind shall be employed with the television equipment.

(2) Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings.

(3) Media personnel must demonstrate to the trial judge adequately in advance of any proceeding that the equipment sought to be utilized meets the sound and light requirements of this rule. A failure to demonstrate that these criteria have been met for specific equipment shall preclude its use in any proceeding.

(**c**) **Location of equipment and personnel.**

(1) Television camera equipment shall be positioned in such location in the court as shall be designated by the trial judge. The area designated shall provide reasonable access to coverage. When areas that permit reasonable access to coverage are provided, all television camera and audio equipment must be located in an area remote from the court.

(2) A still camera photographer shall position himself or herself in such location in the court as shall be designated by the trial judge. The area designated shall provide reasonable access to coverage. Still camera photographers shall assume a fixed position within the designated area and, once a photographer has established himself or herself in a shooting position, he or she shall act so as not to attract attention by distracting movement. Still camera photographers shall not be permitted to move about in order to obtain photographs of court proceedings.

(3) Broadcast media representatives shall not move about the court facility while proceedings are in session.

(d) Movement of equipment during proceedings. News media photographic or audio equipment shall not be placed in, or removed from, the court except before commencement or after adjournment of proceedings each day, or during a recess. Microphones or taping equipment, once positioned as required by (a)(3) above, may not be moved from their position during the pendency of the proceeding. Neither television film magazines nor still camera film or lenses may be changed within a court except during a recess in the proceedings.

(e) Courtroom light sources. When necessary to allow news coverage to proceed, modifications and additions may be made in light sources existing in the facility, provided such modifications or additions do not produce distracting light and are installed and maintained without public expense. Such modifications or additions are to be presented to the trial judge for review prior to their implementation.

(f) Conferences of counsel. To protect the attorney-client privilege and the effective right to counsel, there shall be no video or audio pickup or broadcast of the conferences which occur in a court between attorneys and their client, co-counsel of a client, opposing counsel, or between counsel and the trial judge held at the bench. In addition, there shall be no video pickup or broadcast of work papers of such persons.

(g) Impermissible use of media material. None of the film, videotape, still photographs or audio reproductions developed during, or by virtue of, coverage of a judicial proceeding shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent or collateral thereto, or upon any retrial or appeal of such proceedings.

(Amended effective December 3, 2013.)

Advisory Committee Comment--2009 Amendments

This rule was initially derived from the local rules of three districts.

The Supreme Court has adopted rules allowing cameras in the courtrooms in limited circumstances, and it is inappropriate to have a written rule that does not accurately state the standards which lawyers are expected to follow. See In re Modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct, No. C7-81-300 (Minn. Sup. Ct. May 22, 1989). The court has ordered an experimental program for videotaped recording of proceedings for the official record in the Third, Fifth and Seventh Judicial Districts. In re Videotaped Records of Court Proceedings in the Third, Fifth, and Seventh Judicial Districts, No. C4-89-2099 (Minn. Sup. Ct. Nov. 17, 1989) (order). The proposed local rule is intended to allow the local courts to comply with the broader provisions of the Supreme Court Orders, but to prevent unauthorized use of cameras in the courthouse where there is no right to access with cameras.

The rule was amended in 2009 to add Rule 4.02, comprising provisions that theretofore were part of the Minnesota Rules of Judicial Conduct. This change is not intended to be substantive in nature, but the provisions are moved to the court rules so they are more likely to be known to litigants. Canon 3(A)(11) of the Minnesota Code of Judicial Conduct is amended to state the current obligation of judges to adhere to the rules relating to court access for cameras and other electronic reporting equipment.

The extensive amendment of Rule 4 in 2009 reflects decades of experience under a series of court orders dealing with the use of cameras in Minnesota courts. See In re Modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct, Order re: Audio and Video Coverage of Trial Court Proceedings, No. C7-81-300 (Minn. Sup. Ct. April 18, 1983); Order Permitting Audio and Video Coverage of Supreme Court Proceedings, No. C6-78-47193 (Minn. Sup. Ct. April 20, 1983); Amended Order Permitting Audio and Video Coverage of Appellate Court Proceedings, No. C7-81-3000 (Minn. Sup. Ct. Sept. 28, 1983); In re Modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct to Conduct and Extend the Period of Experimental Audio and Video Coverage of Certain Trial Court Proceedings, Order, C7-81-300 (Minn. Sup. Ct. Aug. 21, 1985); In re Modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct, Order re: Audio and Video Coverage of Trial Court Proceedings (Minn. Sup. Ct. May 22, 1989); and In re Modification of Canon 3A(10) of the Minnesota Code of Judicial Conduct, Order, No. C7-81-3000 (Minn. Sup. Ct. Jan. 11, 1996)(reinstating April 18, 1983, program and extending until further order of Court). The operative provisions of those orders, to the extent still applicable and appropriate for inclusion in a court rule, are now found in Rule 4.

Amended Rule 4.01 defines how this rule dovetails with other court rules that address issues of recording or display of recorded information. The primary thrust of Rule 4 is to define when media access is allowed for the recording or broadcast of court proceedings. Other rules establish limits on access to or use of court-generated recordings, such as court-reporter tapes and security tapes. See, e.g., Minnesota Rules of Public Access to Records of the Judicial Branch.

Amended Rules 4.02(a) & (b) are drawn from Canon 3A(11)(a) & (b) of the Minnesota Code of Judicial Conduct prior to its amendment in 2008. Rule. 4.02(c) and the following sections (i) through (vii) are taken directly from the Standards of Conduct and Technology Governing Still Photography, Electronic and Broadcast Coverage of Judicial Proceedings, Exhibit A to In re Modification of Canon 3A(7) of the Minnesota Code of Judicial Conduct, Order re: Audio and Video Coverage of Trial Court Proceedings, No. C7-81-300 (Minn. Sup. Ct. April 18, 1983)

Amended Rule 4.04 establishes rules applicable to the appellate courts, and is drawn directly from Amended Order Permitting Audio and Video Coverage of Appellate Court Proceedings, No. C7-81-3000 (Minn. Sup. Ct. Sept. 28, 1983).

RULE 5. APPEARANCE BY OUT-OF-STATE LAWYERS

Lawyers duly admitted to practice in the trial courts of any other jurisdiction may appear in any of the courts of this state provided (a) the pleadings are also signed by a lawyer duly admitted to practice in the State of Minnesota, and (b) such lawyer admitted in Minnesota is also present before the court, in chambers or in the courtroom or participates by telephone in any hearing conducted by telephone. In a subsequent appearance in the same action the out-of-state lawyer may, in the discretion of the court, conduct the proceedings without the presence of Minnesota counsel. The out-of-state lawyer is subject to all rules that apply to lawyers admitted in Minnesota, including rules related to e-filing.

Any lawyer appearing pursuant to this rule is subject to the disciplinary rules and regulations governing Minnesota lawyers and by applying to appear or appearing in any action is subject to the jurisdiction of the Minnesota courts.

(Amended effective July 1, 2015.)

Task Force Comment--1991 Adoption

This rule is derived from 3rd Dist. R. 1. This rule is intended to supplement Minnesota Statutes, section 481.02 (1990) and would supersede the statute to the extent the rule may be inconsistent with it. This rule recognizes and preserves the power and responsibility of the court to determine the proper role to be played by lawyers not admitted to practice in Minnesota.

Advisory Committee Comment—2015 Amendments

The amendments to Rule 5 are not substantive in nature or intended effect. They make explicit what the courts have recognized as within their inherent power to regulate the practice of law before the courts. The court's jurisdiction over the person of lawyers applying to appear or appearing in the Minnesota courts is not open to serious question, at least as to disciplinary matters relating to that application or appearance. This rule makes clear the court's jurisdiction over a pro hac vice applicant, and similarly makes it clear that e-filing of documents with the Minnesota courts would have this consequence. The application for a subpoena in an action pending outside Minnesota does not create

an appearance under R. Civ. P. 45 as proposed by the civil rules advisory committee, but nonetheless subjects the applicant to the court's jurisdiction and disciplinary authority. The subpoena and procedures to enforce it are subject to Minnesota procedural rules and rules governing the conduct of lawyers.

RULE 6. FORM OF PLEADINGS THAT ARE NOT FILED ELECTRONICALLY

Rule 6.01 Format

All pleadings or documents that are not filed electronically shall be double spaced and legibly handwritten, typewritten, or printed on one side on plain unglazed paper of good texture. Every page shall have a top margin of not less than one inch, free from all typewritten, printed, or other written matter. Under Rule 14 of these rules, all pleadings or documents filed electronically must comply with the format requirements established by the state court administrator in the *Minnesota District Court Registered User Guide for Electronic Filing.*

(Amended effective July 1, 2015.)

Civil Rules Advisory Committee Comment—2006 Amendment

Rule 6.01 is amended to delete a sentence dealing with filing by facsimile. The former provision is, in effect, superseded by Minn. R. Civ. P. 5.05, as amended effective January 1, 2006.

Advisory Committee Comment—2012 Amendment

Rule 6.01 is amended to dovetail the requirements for the form of paper pleadings, as set forth in the prior text of this rule, with the fundamentally different format required for documents electronically filed and served. Those format requirements are generally set forth in new Rule 14.05.

Rule 6.02 Paper Size

All papers served or filed by any party that are not served or filed electronically shall be on standard size 8-1/2 X 11 inch paper.

(Amended effective July 1, 2015.)

Rule 6.03 Backings Not Allowed

No pleading, motion, order, or other paper submitted to the court administrator for non-electronic filing shall be backed or otherwise enclosed in a covering. Any papers that cannot be attached by a single staple in the upper lefthand corner shall be clipped or tied by an alternate means at the upper lefthand corner.

(Amended effective July 1, 2015.)

(Former Rule 102 adopted effective January 1, 1992; renumbered effective January 1, 1993.)

Cross Reference: Minn. R. Civ. P. 5.05, 10.

Advisory Committee Comment--1992 Amendments

This rule is based on 4th Dist. R. 1.01 (a) & (b), with changes.

Although the rule permits the filing of handwritten documents, the clearly preferred practice in Minnesota is for typewritten documents. Similarly, commercially printed papers are rarely, if ever, used in Minnesota trial court practice, and the use of printed briefs in appellate practice is discouraged.

All courts in Minnesota converted to use of "letter size" paper in 1982. See Order Mandating 8-1/2 x 11 Inch Size Paper For All Filings in All Courts in the State, Minn. Sup. Ct., Apr. 16, 1982 (no current file number assigned), reprinted in Minn. Rules of Ct. 665 (West pamph. ed. 1992). Papers filed in the appellate courts must also be on letter-sized paper. See Minn. R. Civ. App. P. 132.01, subdivision 1. This rule simply reiterates the requirement for the trial courts.

Advisory Committee Comment—2015 Amendments

The amendments to Rule 6 recognize that upon the adoption of mandatory e-filing for some courts and some types of cases, other documents will be filed in paper form. The rule does not change the requirements for paper documents.

Rule 6.01 also provides a cross-reference to the Minnesota District Court Registered User Guide for Electronic Filing, which will contain the format requirements for electronic documents that are e-filed or e-served. See Minn. Gen. R. Prac. 14. That guidance document will be regularly updated and maintained on the judicial branch website, www.mncourts.gov, which will allow it to be kept current as technical requirements evolve without repeated amendatory Supreme Court orders.

RULE 7. PROOF OF SERVICE

When a document has been conventionally served before filing, proof of service shall be affixed to the document so that the identity of the document is not obscured. If a document is filed before conventional service has been made, proof of service shall be filed within 10 days after service is made. When a document has been served through the E-Filing System in accordance with Rule 14, the record of service on the E-Filing System shall constitute proof of service.

(Former Rule 103 adopted effective January 1, 1992; renumbered effective January 1, 1993; amended effective July 1, 2015.)

Cross Reference: Minn. R. Civ. P. 4.06, 5.04.

Advisory Committee Comments--1995 Amendments

This rule derived from Rule 13 of the Code of Rules for the District Courts. The second sentence is new, drafted to provide for filing of documents where service is to be made after filing. The Committee recommends amendment of the rule to require a specific rather than subjective standard for the filing of proof of service. Although the Committee heard requests to change the rule to require that all documents be filed with proof of service attached, the Committee believes that such a rule is neither helpful nor necessary. Such a rule would make it difficult to serve and file documents at the same time, and would probably result in greater problems relating to untimely service and filing. Nonetheless, there appear to be a number of situations where proof of service is not filed for a substantial period of time, resulting in confusion in the courts. The rule is accordingly amended to change the requirement from filing "promptly" after service to "within ten days" after service. The Committee believes this period is more than sufficient for filing a proof of service. The Committee is also sensitive to a potential problem that would arise with a requirement that proof of service accompany documents at the time of filing. The Committee continues to believe that documents, in whatever form, should not be rejected for filing by the court administrators. Rather, documents should be filed as submitted and the court should deal with any deficiencies or irregularities in the documents in an orderly way, having in mind the mandate of Rule 1 of the Minnesota Rules of Civil Procedure that the rules be interpreted to advance the "just, speedy, and inexpensive" determination of every action.

Advisory Committee Comment—2012 Amendment

Rule 7 is amended to make it clear that a separate proof of service is not required for documents served using the court's e-service system in cases where that method is authorized by the rules. Proof of service exists in the system's records and that record of service suffices to prove service for all purposes.

Advisory Committee Comment—2015 Amendments

Rule 7 is amended to provide for proof of service for all methods of service allowed under the rules. E-service is proved by the record maintained by and available from the court's e-filing and e-service system, obviating any additional filings to prove service. All other means of service are defined as "conventional service" by Rule 14.01, which is proved by a written affidavit, certificate, or acknowledgement of service filed shortly after service is made.

RULE 8. INTERPRETERS

Definitions

1. "Review Panel" means the Minnesota Court Interpreter Review Panel, which is comprised of two district court judges and one court administrator appointed by the Chief Justice of the Minnesota Supreme Court.

2. "Coordinator" means the Court Interpreter Program Coordinator assigned to the State Court Administrator's Office.

3. "Good Character" means traits that are relevant to and have a rational connection with the present fitness or capacity of an applicant to provide interpretation services in court proceedings.

4. "Roster" means the Minnesota statewide roster of court interpreters.

(Incorporated into General Rules of Practice, as amended, effective January 1, 2006.)

Rule 8.01 Statewide Roster

The State Court Administrator shall maintain and publish annually a statewide roster of certified and non-certified interpreters which shall include:

(a) Certified Court Interpreters: To be included on the Statewide Roster, certified court interpreters must have satisfied all certification requirements pursuant to Rule 8.04.

(b) Non-certified Foreign Language Court Interpreters: To be included on the Statewide Roster, foreign language court interpreters must have: (1) completed the interpreter orientation program sponsored by the State Court Administrator; (2) filed with the State Court Administrator a written affidavit agreeing to be bound by the Code of Professional Responsibility for Interpreters in the Minnesota State Court System as the same may be amended from time to time; (3) received a passing score on a written ethics examination administered by the State Court Administrator; and (4) demonstrated minimal language proficiency in English and any foreign language(s) for which the interpreter will be listed, as established by protocols developed by the State Court Administrator.

(c) Non-certified Sign Language Court Interpreters: To be included on the Statewide Roster, non-certified sign language court interpreters must

(1) have satisfied the three requirements set forth about in Rule 8.01(b);

(2) be a member in good standing with the Registry of Interpreters for the Deaf (RID) or with the National Association of the Deaf (NAD); and
(3) possess
    (i) both a valid Certificate of Transliteration (CT) and a Certificate of Interpretation from RID; or
    (ii) a valid Comprehensive Skills Certificate (CSC) from RID or
    (iii) a valid Level 5 certificate from NAD; or
    (iv) a valid Certified Deaf Interpreter (CDI) or Certified Deaf Interpreter Provisional (CDIP) certificate from RID; or
    (v) another equivalent valid certification approved by the State Court Administrator.

(As amended, effective January 1, 2007.)

Advisory Committee Comment 1997 Amendment

It is the policy of the state to provide interpreters to litigants and witnesses in civil and criminal proceedings who are handicapped in communication. Minnesota Statutes, sections 611.30 - .32 (1996); Minn. R. Crim. P. 5.01, 15.01, 15.03, 15.11, 21.01, 26.03, 27.04, subd. 2; Minnesota Statutes, section 546.44, subdivision 3 (1996); see also 42 U.S.C. section 12101; 28 C.F.R. Part 35, section 130 (prohibiting discrimination in public services on basis of disability).

To effectuate that policy, the Minnesota Supreme Court has initiated a statewide orientation program of training for court interpreters and promulgated the Rules on Certification of Court Interpreters. Pursuant to Rule 8.01 of the General Rules of Practice for the District Courts, the State Court Administrator has established a statewide roster of court interpreters who have completed the orientation program on the Minnesota court system and court interpreting and who have filed an affidavit attesting that they understand and agree to comply with the Code of Professional Responsibility for Court Interpreters adopted by the Minnesota Supreme Court on September 18, 1995. The creation of the roster is the first step in a process that is being undertaken to ensure the competence of court interpreters. To be listed on the roster, a non-certified court interpreter must attend an orientation course provided or approved by the State Court Administrator. The purpose of the orientation is to provide interpreters with information regarding the Code of Professional Responsibility, the role of interpreters in our courts, skills required of court interpreters, the legal process, and legal terminology. Merely being listed on the roster does not certify or otherwise guarantee an interpreter's competence.

In 1997, two key changes were made to this rule. First, interpreters are now required to receive a passing score on the ethics examination before they are eligible to be listed on the Statewide Roster. This change was implemented to ensure that court interpreters on the Statewide Roster have a demonstrated knowledge of the Code of Professional Responsibility.

Second, to be eligible to be listed on the Statewide Roster, non-certified sign language court interpreters are required to possess certificates from the Registry of

Interpreters for the Deaf (RID), which demonstrate that the interpreter has minimum competency skills in sign language. This change was recommended by the Advisory Committee because of reports to the Committee that courts were hiring sign language interpreters who completed the orientation training, but who were not certified by RID. This practice was troubling because prior to the promulgation of Rule 8, courts generally adopted the practice of using only RID certified sign language interpreters to ensure a minimum level of competency. Unlike most spoken language interpreting fields, the field of sign language interpreting is well established with nationally developed standards for evaluation and certification of sign language interpreters. Because of the long history of RID, its certification program, the availability of RID certified sign language interpreters in Minnesota and the recent incidents when courts have deviated from their general practice of appointing RID certified sign language interpreters, the Advisory Committee determined that it is appropriate and necessary to amend Rule 8 to maintain the current levels of professionalism and competency among non-certified sign language court interpreters.

Advisory Committee Comments—2007 Amendment

Rule 8.01(b) is amended to add a new subsection (4). This subsection imposes an additional requirement that court interpreters demonstrate proficiency in English as well as the foreign languages for which they will be listed. This provision is necessary because certification is currently offered only in 12 languages and many of the state's interpreters are not certified. This change is intended to minimize the current problems involving need to use non-certified interpreters who now often do not possess sufficient English language skills to be effective.

Rule 8.02 Appointment

(a) Use of Certified Court Interpreter. Whenever an interpreter is required to be appointed by the court, the court shall appoint only a certified court interpreter who is listed on the statewide roster of interpreters established by the State Court Administrator under Rule 8.01, except as provided in Rule 8.02(b), (c) and (d). A certified court interpreter shall be presumed competent to interpret in all court proceedings. The court may, at any time, make further inquiry into the appointment of a particular certified court interpreter. Objections made by a party regarding special circumstances which render the certified court interpreter unqualified to interpret in the proceeding must be made in a timely manner.

(b) Use of Non-Certified Court Interpreter on Statewide Roster. If the court has made diligent efforts to obtain a certified court interpreter as required by Rule 8.02(a) and found none to be available, the court shall appoint a non-certified court interpreter who is otherwise competent and is listed on the Statewide Roster established by the State Court Administrator under Rule 8.01. In determining whether a non-certified court interpreter is competent, the court shall apply the screening standards developed by the State Court Administrator.

(c) Use of Non-certified Foreign Language Court Interpreter not on the Statewide Roster. Only after the court has exhausted the requirements of Rule 8.02(a) and (b) may the court appoint a non-certified foreign language interpreter who is not listed on the Statewide Roster and who is otherwise competent. In determining whether a non-certified

foreign language interpreter is competent, the court shall apply the screening standards developed by the State Court Administrator.

(d) Use of Non-certified Sign Language Court Interpreter not on the Statewide Roster. Only after exhausting the requirements of Rule 8.02(a) and (b) may the court appoint a non-certified sign language interpreter(s) not on the Statewide Roster. The court must appoint an interpreter(s) who can establish effective communication and who is (are):

(1) an interpreter who is a member in good standing with RID or NAD who possesses both a valid CT and a valid CI; or a valid CSC from RID; or a valid Level 5 certificate from NAD; or a valid CDI or CDIP certificate; or another equivalent valid certification approved by the State Court Administrator. If no such interpreter is available,

(2) a team including an interpreter with a valid CDI or CDIP certificate and an interpreter who has a valid CI or a valid CT form RID. If no such interpreters are available, as a last resort,

(3) an interpreter with a valid CI from RID.

(Added effective January 1, 1996; amended effective March 15, 2002.)

Advisory Committee Comment 2002 Amendment

Rule 8.02(a) requires that courts use certified court interpreters. If certified court interpreters are not available or cannot be located, courts should next use only interpreters listed on the statewide roster maintained by the State Court Administrator. Rule 8.02 recognizes, however, that in rare circumstances it will not be possible to appoint an interpreter from the statewide roster. Non-roster interpreters and telephone interpreting services, such as AT & T's Language Lines Service, should be used only as a last resort because of the limitations of such services including the lack of a minimum orientation to the Minnesota Court System and to the requirements of court interpreting. For a detailed discussion of the issues, see Court Interpretation: Model Guides for Policy and Practice in the State Courts, chapter 8 (National Center for State Courts, 1995), a copy of which is available from the State Court Administrator's Office. To avoid unreasonable objections to a certified court interpreter in a proceeding, the rule makes a presumption that the certified court interpreter is competent. However, the rule also recognizes that there are situations when an interpreter may be competent to interpret, but not qualified. Examples of such situations include when an interpreter has a conflict of interest or the user of the interpreter services has unique demands, such as services tailored to a person with minimal language skills, that the interpreter is not as qualified to meet.

Rule 8.02(b) requires that courts make "diligent" efforts to locate a certified court interpreter before appointing a non-certified court interpreter. Because the certification process is still in an early stage and because it is important to ensure that courts use competent interpreters, courts should seek the services of certified court interpreters who are located outside the court's judicial district if none can be found within its own district. In addition, courts should consider modifying the schedule for a matter if there is difficulty locating a certified interpreter for a particular time. Because the certification program being implemented by the State Court Administrator is still new, interpreters are being certified in only certain languages at this time. The Advisory

Committee recognizes that it may be some time before certification is provided for all languages used in our courts. However, the committee feels strongly that for those languages for which certification has been issued, the courts must utilize certified court interpreters to ensure that its interpreters are qualified. If a court uses non-certified court interpreters, court administrators should administer the screening standards prior to hiring an interpreter. However, the presiding judge is still primarily responsible for ensuring the competence and qualifications of the interpreter. A model voir dire to determine the competence and qualifications of an interpreter is set forth in the State Court Administrator's Best Practices Manual on Court Interpreters.

The Supreme Court has received reports that courts do not always comply with Rule 8.02(b)'s requirements that courts make "diligent" efforts to locate a certified court reporter before appointing a non-certified court interpreter. Apparently there is some confusion about the meaning of "diligent" efforts. To clarify, to satisfy the diligent efforts requirement a court must demonstrate that, after receiving a request for an interpreter, the court made prompt attempts to hire a certified court interpreter. If the court could not find a certified court interpreter within its judicial district, it must show that it attempted to locate a certified interpreter in another judicial district. If no certified interpreter is available, the court must consider modifying the schedule for the matter before resorting to hiring a non-certified court interpreter.

Rule 8.03 Disqualification from Proceeding

A judge may disqualify a court interpreter from a proceeding for good cause. Good cause for disqualification includes, but is not limited to, an interpreter who engages in the following conduct:

(a) Knowingly and willfully making a false interpretation while serving in a proceeding;

(b) Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;

(c) Failing to follow applicable laws, rules of court, or the Code of Professional Responsibility for Interpreters in the Minnesota State Court System.

(Added effective January 1, 1996; amended effective January 1, 1998.)

Advisory Committee Comment 1995

Interpreters must take an oath or affirmation to make a true interpretation to the best of their ability, to the person handicapped in communication and to officials. Minnesota Statutes, sections 546.44, subdivision 2; 611.33, subdivision 2 (1994). Interpreters cannot disclose privileged information without consent. Minnesota Statutes, sections 546.44, subdivision 4; 611.33, subdivision 4 (1994). These and other requirements are also addressed in the Code of Professional Responsibility for Interpreters in the Minnesota State Court System.

Rule 8.04 General Requirement for Court Interpreter Certification

(a) Eligibility for Certification. An applicant is eligible for certification upon establishing

to the satisfaction of the State Court Administrator:

1. age of at least 18 years;

2. good character and fitness;

3. inclusion on the Statewide Roster of court interpreters maintained by the State Court Administrator's office in accordance with Rule 8 of the General Rules of Practice for the District Courts;

4. passing score on legal interpreting competency examination administered or approved by the State Court Administrator's Office; and

5. passing score on a written ethics examination administered by the State Court Administrator's Office.

(Incorporated into General Rules of Practice, as amended, effective January 1, 2006)

Rule 8.05 Examination for Legal Interpreting Competency

(a) Examination. Examinations for legal interpreting competency in specific languages shall be administered at such times and places as the Coordinator may designate.

1. Scope of Examination. Applicants for certification in interpreting in a spoken or sign language may be tested on any combination of the following:

a. Sight Interpretation;
b. Consecutive Interpretation;
c. Simultaneous Interpretation; and
d. Transliteration (when applicable).

2. Denial of Opportunity to Test. An applicant may be denied permission to take an examination if an application, together with the application fee, is not complete and filed in a timely manner.

3. Results of Examination. The results of the examination, which may include scores, shall be released to examinees by regular mail to the address listed in the Coordinator's files. Statistical information relating to the examinations, applicants, and the work of the State Court Administrator's Office may be released at the discretion of the State Court Administrator's Office. Pass/fail examination results may be released to (1) District Administrators by the State Court Administrator's Office for purposes of assuring that interpreters are appointed in accordance with Rule 8.02, and (2) any state court interpreter certification authority.

4. Testing Accommodations. A qualified applicant with a disability who requires reasonable accommodations must submit a written request to the Coordinator at the same time the application is filed. The Coordinator will consider timely requests and advise the applicant of what, if any, reasonable accommodations will be provided. The Coordinator may request additional information, including medical evidence, from the applicant prior to providing accommodations to the applicant.

5. Confidentiality. Except as otherwise provided in Rule 8.05(a)3, all information relating to the examinations is confidential unless the examinee waives confidentiality.

The State Court Administrator's Office shall take steps to ensure the security and confidentiality of all examination information.

(Amended effective January 1, 2007.)

Drafting Committee Comment--1996

The Minnesota Supreme Court is one of the founding states of the State Court Interpreter Certification Consortium. It is the function of the Consortium to develop tests for court interpretation in various languages and administration standards, and to provide testing materials to individual states and jurisdictions. The Minnesota State Court Administrator's Office will in most circumstances utilize tests and standards established by or in conjunction with the Consortium.

Advisory Committee Comments—2007 Amendment

Rule 8.05(a)(3) is amended to facilitate verification of interpreters' qualification by permitting the release of the interpreter test results to court administrators or interpreter program administrators.

Rule 8.05(a)(5) is amended to provide for the waiver of confidentiality by examinees for the purpose of permitting the release of examination information upon their request.

Rule 8.06 Application for Certification

(a) Complete Application. An applicant desiring legal interpreting certification in a particular language shall file with the Coordinator a complete and notarized application on a form prepared by the State Court Administrator's Office and pay the application fee established by the State Court Administrator's Office.

(b) Certification Standards.

1. Screening. The State Court Administrator's Office shall administer character, fitness and competency screening. It shall perform its duties in a manner that ensures the protection of the public by recommending for certification only those who qualify. A court interpreter should be one whose record of conduct justifies the trust of the courts, witnesses, jurors, attorneys, parties, and others with respect to the official duties owed to them. A record manifesting significant deficiency in the honesty, trustworthiness, diligence or reliability of an applicant may constitute a basis for denial of certification.

2. Relevant Conduct. The revelation or discovery of any of the following should be treated as cause for further inquiry before the State Court Administrator's Office decides whether the applicant possesses the character and fitness to qualify for certification to interpret in the courtroom:

a. conviction of a crime which resulted in a sentence or a suspended sentence;

b. misconduct involving dishonesty, fraud, deceit or misrepresentation;

c. revocation or suspension of certification as an interpreter, or for any other position or license for which a character check was performed in this state or in other jurisdictions; and

d. acts that indicate abuse of or disrespect for the judicial process.

3. Evaluation of Character and Fitness. The State Court Administrator's Office shall determine whether the present character and fitness of an applicant qualifies the applicant for certification. In making this determination, the following factors should be considered in assigning weight and significance to prior conduct:

a. the applicant's age at the time of the conduct;

b. the recency of the conduct;

c. the reliability of the information concerning the conduct;

d. the seriousness of the conduct;

e. the factors underlying the conduct;

f. the cumulative effect of the conduct;

g. the evidence of rehabilitation;

h. the applicant's positive social contributions since the conduct;
i. the applicant's candor in the certification process; and
j. the materiality of any admissions or misrepresentations.

(c) Notification of Application for Certification. The Coordinator shall notify applicants in writing and by regular mail of the decision on the applicant's request for certification.

(d) Information Disclosure.

1. Application File. An applicant may review the contents of his or her application file, except for the work product of the Coordinator and the State Court Administrator's Office, at such times and under such conditions as the State Court Administrator's Office may provide.

2. Investigation. Information may be released to appropriate agencies for the purpose of obtaining information related to the applicant's character and competency.

3. Confidentiality.

a. Investigative Data: Information obtained by the Coordinator and the State Court Administrator's Office during the course of their investigation is confidential and may not be released to anyone absent a court order. The court shall consider whether the benefit to the person requesting the release of the investigative data outweighs the harm to the public, the agency or any person identified in the data.

b. Applicant File Data: All information contained in the files of applicants for court interpreter certification in the State Court Administrator's Office except as otherwise provided in Rule 8.06(d)3 of these rules is confidential and will not be released to anyone except upon order of a court of competent jurisdiction or the consent of the applicant.

c. Examination Information: Examination Information shall be available as provided in Rule 8.05(a).

(Incorporated into General Rules of Practice, as amended, effective January 1, 2006.)

Drafting Committee Comment--1996

The primary purpose of character, fitness and competency screening is to ensure equal access to justice for people with limited English proficiency, or speech or hearing impairments. Such screening also ensures the efficient and effective operation of our judicial system. Our judicial system is adequately protected by a system that evaluates the character, fitness and competency of an interpreter as those elements relate to interpreting in the courtroom. The public interest requires that all participants in the courtroom be secure in their expectation that those who are certified interpreters are competent to render such services and are worthy of the trust that the courts, witnesses, jurors, attorneys and parties may reasonably place in the certified interpreter.

Rule 8.07 Appeal of Denial of Certification

(a) Appeal of Certification Denial. Any applicant who is denied certification by the State Court Administrator's Office may appeal to the Review Panel by filing a petition for

review with the Review Panel within twenty (20) days of receipt by the applicant of a final decision by the State Court Administrator's Office.

The petition shall briefly state the facts that form the basis for the complaint and the applicant's reasons for believing that review is warranted. A copy of the petition must be provided to the State Court Administrator's Office.

(b) Response From State Court Administrator's Office. The State Court Administrator's Office shall submit to the Review Panel a response to the applicant's appeal of the denial of certification within a reasonable time after receipt of a copy of the applicant's petition for review. The response should set forth the reasons for the denial of certification.

(c) Decision by the Minnesota Court Interpreter Review Panel. The Review Panel shall give such directions, hold such hearings and make such order as it may deem appropriate.

(Incorporated into General Rules of Practice, as amended, effective January 1, 2006.)

Rule 8.08 Complaints and Investigation

(a) Procedure. Complaints of alleged unprofessional, illegal or unethical conduct by any certified or non-certified court interpreter on the Minnesota Court Interpreter Roster shall be governed by procedures established by the State Court Administrator's Office. These procedures shall include the following:

1. a description of the types of actions which may be grounds for discipline;
2. a description of the types of sanctions available;
3. a procedure by which a person can file a complaint against an interpreter;
4. a procedure for the investigation of complaints;
5. a procedure for the review of complaints;
6. a hearing procedure for cases involving more severe sanctions; and
7. an appeal process when applicable.

(b) Revocation or Suspension of Certification or Roster Status. The certification or roster status of a certified or non-certified interpreter on the Minnesota Court Interpreter Roster is subject to suspension or revocation by the State Court Administrator's Office in accordance with the procedures established by the State Court Administrator's Office.

(Incorporated into General Rules of Practice, as amended, effective January 1, 2006.)

Drafting committee comment--1996

The complaint procedure is not intended as a means for appealing claims of error by a court interpreter. The complaint procedure is available to address unprofessional or unethical conduct by certified and non-certified court interpreters. Consequently, in the absence of fraud, corrupt motive, bad faith, or pattern of established interpreter error, the Coordinator is not likely to initiate an investigation of a complaint of an error of a court interpreter.

It is contemplated that the power to revoke or suspend interpreter certification or roster status will be exercised sparingly and when exercised, consideration will be given to the appropriate procedure and the giving of notice and an opportunity to be heard if such process is due the interpreter.

Rule 8.09 Expenses and Fees

The expenses for administering the certification requirements, including the complaint procedures, may be paid from initial application, examination fees and renewal fees. The fees shall be set by the State Court Administrator's Office and may be revised as necessary with the approval of the Supreme Court.

(Incorporated into General Rules of Practice, as amended, effective January 1, 2006.)

Rule 8.10 Continuing Education Requirements

The State Court Administrator's Office may establish continuing education requirements for certified and non-certified interpreters on the Minnesota Court Interpreter Roster with the approval of the Supreme Court.

(Incorporated into General Rules of Practice, as amended, effective January 1, 2006.)

Rule 8.11 Confidentiality of Records

Subject to exceptions in rules 8.01, 8.04(a)(3), 8.05(a)(3), 8.05(a)(5), and 8.06(d) of these rules, and the Enforcement Procedures for the Code of Professional Responsibility for Court Interpreters, all information in the files of the Coordinator, the Review Panel, and the State Court Administrator relating to court interpreters shall be confidential and shall not be released to anyone other than the Supreme Court except upon order of the Supreme Court.

(Incorporated into General Rules of Practice, as amended, effective January 1, 2006.)

Drafting Committee Comment--2000

This rule is being added in 2000 to provide a consistent and necessary level of confidentiality for information maintained in the court interpreter orientation and certification process, including for example testing materials, orientation and registration information, and non-roster contact information. Both certified and non-certified interpreters included on the statewide roster under rule 8.01 must attend orientation training and pass an ethics exam, but the confidentiality provisions in rules 8.05 and 8.06 are limited to those seeking formal certification. Rule 8.11 ensures consistent confidentiality for all testing, orientation, registration and non-roster contact information, and is consistent with the level of accessibility accorded similar information in the attorney licensing process.

Rule 8.12 Interpreters to Assist Jurors

Qualified interpreters appointed by the court for any juror with a sensory disability may be present in the jury room to interpret while the jury is deliberating and voting.

(Added effective January 1, 2006.)

Advisory Committee Comment – 2006 Amendment

Rule 8.12 is intended to provide guidance on the role of interpreters appointed for the benefit of jurors with a sensory disability. The requirement that such interpreters be allowed to join the juror in the jury room is logical and necessary to permit the juror to communicate in deliberations. In this situation the interpreter should be given an oath to follow other constraints placed on jurors (e.g., not to discuss the case, not to read or listen to media accounts of the trial, etc.) and also that the interpreter will participate only in interpreting the statements of others, and will not become an additional juror. An interpreter in this situation should also not be allowed or required to testify as to any aspect of the jury's deliberations in any context a juror would not be allowed or required to testify.

This amendment is drawn from the language of Minn. R. Crim. P. 26.03, subd. 16.

The rule is limited by its terms to interpreters appointed for the benefit of jurors with a sensory disability only because that is the only condition generally resulting in the appointment for jurors. In other, unusual, situations where such an interpreter is appointed, these procedures would presumably apply as well.

Rule 8.13. Requirement for Notice of Anticipated Need for Interpreter

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

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

(Amended effective July 1, 2013.)

Advisory Committee Comment—2008 Amendment

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

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

RULE 9. FRIVOLOUS LITIGATION

Rule 9.01 Motion for Order Requiring Security or Imposing Sanctions

Relief under this rule is available in any action or proceeding pending in any court of this state, at any time until final judgment is entered. Upon the motion of any party or on its own initiative and after notice and hearing, the court may, subject to the conditions stated in Rules 9.01 to 9.07, enter an order: (a) requiring the furnishing of security by a frivolous litigant who has requested relief in the form of a claim, or (b) imposing preconditions on a frivolous litigant's service or filing of any new claims, motions or requests. All motions under this rule shall be made separately from other motions or requests, and shall be served as provided in the Rules of Civil Procedure, but shall not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged claim, motion, or request is not withdrawn or appropriately corrected.

(Added effective September 1, 1999.)

Rule 9.02 Hearing

(a) Evidence. At the hearing upon such motion the court shall consider such evidence, written or oral, by witnesses or affidavit, as may be material to the ground of the motion.

(b) Factors. In determining whether to require security or to impose sanctions, the court shall consider the following factors:

(1) the frequency and number of claims pursued by the frivolous litigant with an adverse result;

(2) whether there is a reasonable probability that the frivolous litigant will prevail on the claim, motion, or request;

(3) whether the claim, motion, or request was made for purposes of harassment, delay, or vexatiousness, or otherwise in bad faith;

(4) injury incurred by other litigants prevailing against the frivolous litigant and to the efficient administration of justice as a result of the claim, motion, or request in question;

(5) effectiveness of prior sanctions in deterring the frivolous litigant from pursuing frivolous claims;

(6) the likelihood that requiring security or imposing sanctions will ensure adequate safeguards and provide means to compensate the adverse party;

(7) whether less severe sanctions will sufficiently protect the rights of other litigants, the public, or the courts.

The court may consider any other factors relevant to the determination of whether to require security or impose sanctions.

(c) Findings. If the court determines that a party is a frivolous litigant and that security or sanctions are appropriate, it shall state on the record its reasons supporting that determination. An order requiring security shall only be entered with an express determination that there is no reasonable probability that the litigant will prevail on the claim. An order imposing preconditions on serving or filing new claims, motions, or requests shall only be entered with an express determination that no less severe sanction will sufficiently protect the rights of other litigants, the public, or the courts.

(d) Ruling Not Deemed Determination of Issues. No determination or ruling made by the court upon the motion shall be, or be deemed to be, a determination of any issue in the action or proceeding or of the merits thereof.

(Added effective September 1, 1999.)

Rule 9.03 Failure to Furnish Security

If security is required and not furnished as ordered, the claim(s) subject to the security requirement may be dismissed with or without prejudice as to the offending party.

(Added effective September 1, 1999.)

Rule 9.04 Stay of Proceedings

When a motion pursuant to Rule 9.01 is properly filed prior to trial, the action or proceeding is stayed and the moving party need not plead or respond to discovery or motions, until 10 days after the motion is denied, or if granted, until 10 days after the required security has been furnished and the moving party given written notice thereof. When a motion pursuant to Rule 9.01 is made at any time after commencement of trial, the action or proceeding may be stayed for such period after the denial of the motion or the furnishing of the required security as the court shall determine.

(Added effective September 1, 1999.)

Rule 9.05 Appeal

An order requiring security or imposing sanctions under this rule shall be deemed a final, appealable order. Any appeal under this rule may be taken to the court of appeals as in other civil cases within 60 days after filing of the order to be reviewed.

(Added effective September 1, 1999.)

Rule 9.06 Definitions

As used in this rule, the following terms have the following meanings:

(a) "Claim" means any relief requested in the form of a claim, counterclaim, cross claim, third party claim, or lien filed, served, commenced, maintained, or pending in any federal or state court, including conciliation court.

(b) "Frivolous litigant" means:

(1) A person who, after a claim has been finally determined against the person, repeatedly relitigates or attempts to relitigate either

(i) the validity of the determination against the same party or parties as to whom the claim was finally determined, or

(ii) the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the same party or parties as to whom the claim was finally determined; or

(2) A person who in any action or proceeding repeatedly serves or files frivolous motions, pleadings, letters, or other documents, conducts unnecessary discovery, or engages in oral or written tactics that are frivolous or intended to cause delay; or

(3) A person who institutes and maintains a claim that is not well grounded in fact and not warranted by existing law or a good faith argument for the extension, modification or reversal of existing law or that is interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigating the claim.

(c) "Security" means either:

(1) an undertaking to assure payment, issued by a surety authorized to issue surety bonds in the State of Minnesota, to the party for whose benefit the undertaking is required to be furnished, of the party's reasonable expenses, including attorney's fees and not limited to taxable costs, incurred in or in connection with a claim instituted, caused to be instituted, or maintained or caused to be maintained by a frivolous litigant or;

(2) cash tendered to and accepted by the court administrator for that purpose.

(Amended effective July 1, 2015.)

Rule 9.07 Effect on Other Provisions

Sanctions available under this rule are in addition to sanctions expressly authorized by any other statute or rule, or in the inherent power of the court.

(Added effective September 1, 1999.)

Advisory Committee Comment - 1999 Amendment

This rule is intended to curb frivolous litigation that is seriously burdensome on the courts, parties, and litigants. This rule is intended to apply only in the most

egregious circumstances of abuse of the litigation process, and the remedies allowed by the rule can be viewed as drastic. Because of the very serious nature of the sanctions under this rule, courts should be certain that all reasonable efforts have been taken to ensure that affected parties are given notice and an opportunity to be heard. Rule 9.01 also requires that the court enter findings of fact to support any relief ordered under the rule, and this requirement should be given careful attention in the rare case where relief under this rule is necessary.

It is appropriate for the court to tailor the sanction imposed under this rule to the conduct and to limit the sanction to what is necessary to curb the inappropriate conduct of the frivolous litigant. See Cello-Whitney v. Hoover, 769 F. Supp. 1155 (W.D. Wash. 1991).

This rule includes a specific provision relating to the possible appeal of an order for sanctions. The rule provides that an appeal may be taken within 60 days, the same period allowed for appeals from orders and judgment, but specifies that the 60-day period begins to run from entry of the date of filing of the order. This timing mechanism is preferable because the requirement of service of notice of entry may not be workable where only one party may be interested in the appeal or where the order is entered on the court's own initiative. The date of filing can be readily determined, and typically appears on the face of the order or is a matter of record, obviating confusion over the time to appeal.

Advisory Committee Comment—2015 Amendments

The amendment to Rule 9 is not substantive in nature or intended effect. The replacement of "paper" with "document" is made throughout these rules to advance precision in choice of language. Most documents will not be filed as "paper" documents, so paper is retired as a descriptor of them.

RULE 10. TRIBAL COURT ORDERS AND JUDGMENTS

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

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

(b) **Procedure.**

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

(2) **Violence Against Women Act; Presumption.** An order that is subject to the Violence Against Women Act of 2000, 18 U.S.C. § 2265 (2003), that appears to be issued by a court with subject matter jurisdiction and jurisdiction over the parties, and that appears not to have expired by its own terms is presumptively enforceable, and shall be honored by Minnesota courts and law enforcement and other officials so long as it remains the judgment of the issuing court and the

respondent has been given notice and an opportunity to be heard or, in the case of matters properly considered ex parte, the respondent will be given notice and an opportunity to be heard within a reasonable time. The presumptive enforceability of such a tribal court order shall continue until terminated by state court order but shall not affect the burdens of proof and persuasion in any proceeding.

(Added effective January 1, 2004.)

Rule 10.02 When Recognition of Tribal Court Orders and Judgments is Discretionary

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

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

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

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

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

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

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

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

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

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

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

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

(Added effective January 1, 2004.)

Advisory Committee Comment—2007 Amendment

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

The rule applies to all tribal court orders and judgments and does not distinguish between tribal courts located in Minnesota and those sitting in other states. The only limitation on the universe of determinations is that they be from tribal courts of a federally-recognized Indian tribe. These courts are defined in 25 U.S.C. § 450b(e), and a list is published by the Department of the Interior, Bureau of Indian Affairs. See, e.g., 70 FED. REG. 71194 (Nov. 25, 2005).

Tribal court adjudications are not entitled to full faith and credit under the United States Constitution, which provides only for full faith and credit for "public acts, records, and judicial proceedings of every other state." U. S. CONST. Art IV, § 1. But state and federal statutes have conferred the equivalent of full faith and credit status on some tribal adjudications by mandating that they be enforced in state court. Where such full faith and credit is mandatory, a state does not exercise discretion in giving effect to the proper judgments of a sister state. Baker v. Gen. Motors Corp., 522 U.S. 222, 233 (1998) ("A final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land.") Through full faith and credit, a sister state's judgment is given res judicata effect in all other states. See, e.g., id.; Hansberry v. Lee, 311 U.S. 32, 42 (1940).

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

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

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

1. Violence Against Women Act of 2000, 18 U.S.C. § 2265 (2003) (full faith and credit for certain protection orders).

2. Indian Child Welfare Act, 25 U.S.C. § 1911(d) (2003) ("full faith and credit" for certain custody determinations).

3. Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B(a) (2003) ("shall enforce" certain child support orders and "shall not seek or make modifications . . . except in accordance with [certain limitations]").

In addition to federal law, the Minnesota Legislature has addressed custody, support, child placement, and orders for protection. The Minnesota Legislature adopted the Uniform Child Custody Jurisdiction and Enforcement Act, MINN. STAT. §§ 518D.101-518D.317 (2002) which: (1) requires recognition and enforcement of certain child custody determinations made by a tribe "under factual circumstances in substantial conformity with the jurisdictional standards of" the Act; and (2) establishes a voluntary registration process for custody determinations with a 20-day period for contesting validity. MINN. STAT. §§ 518D.103; 104 (2002) (not applicable to adoption or emergency medical care of child; not applicable to extent ICWA controls). In addition, the Minnesota Legislature has adopted the Uniform Interstate Family Support Act, MINN. STAT. §§ 518C.101-518C.902 (2002), which provides the procedures for enforcement of support orders from another state ["state" is defined to include an Indian tribe, MINN. STAT. § 518C.101(s)(1) (2002)] with or without registration, and enforcement and modification after registration. The Minnesota Legislature has also adopted the Minnesota Indian Family Preservation Act, MINN. STAT. §§ 260.751 – 260.835 (2002), which provides, among other things, that tribal court orders concerning child placement (adoptive and pre-adoptive placement, involuntary foster care placement, termination of parental rights, and status offense placements) shall have the same force and effect as orders of a court of this state. MINN. STAT. § 260.771, subd. 4 (2002). In 2006 the Minnesota Legislature adopted Minn. Stat. § 518B.01, subd. 19a, which requires enforcement of certain foreign or tribal court orders for protection.

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

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

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

Comity is also an inherently flexible doctrine. A court asked to decide whether to recognize a foreign order can consider whatever aspects of the foreign court proceedings it deems relevant. Thus Rule 10.02(a) does not dictate a single standard for determining the effect of these adjudications in state court. Instead, it identifies some of the factors a Minnesota judge may consider in determining what effect such a determination will be given. Rule 10.02(a) does not attempt to define all of the factors that may be appropriate for consideration by a court charged with determining whether a tribal court determination should be enforced. It does enumerate many of the appropriate factors. It is possible in any given case that one or more of these factors will not apply. For example, reciprocity is not a pre-condition to enforceability generally, Nicol, 310 Minn. at 75-79, 256 N.W.2d at 800-02, but may be relevant in some circumstances. Notice of the proceedings and an opportunity to be heard (or the prospect of notice and right to hearing in the case of ex parte matters) are fundamental parts of procedural fairness in state and federal courts and are considered basic elements of due process; it is appropriate at least to consider whether the tribal court proceedings extended these rights to the litigants. The issue of whether the tribal court is "of record" may be important to the determination of what the proceedings were in that court. A useful definition of "of record" is contained in the Wisconsin statutes. WIS. STAT. § 806.245(1)(c) (2001-02); see also WIS. STAT. § 806.245(3) (2001-02) (setting forth requirements for determining whether a court is "of record"). The rule permits the court to inquire into whether the tribal court proceedings offered similar protections to the parties, recognizing that tribal courts may not be required to adhere to the requirements of due process under the federal and state constitutions. Some of the considerations of the rule are drawn from the requirements of the Minnesota Uniform Enforcement of Foreign Judgments Act, MINN. STAT. §§ 548.26-.33 (2002). For example, contravention of the state's public policy is a specific factor for non-recognition of a foreign state's judgment under MINN. STAT. § 548.35, subd. 4(b)(3)(2002); it is carried forward into Rule 10.02(a)(7). Inconsistency with state public policy is a factor for non-recognition of tribal court orders under other states' rules. See MICH. R. CIV. P. 2.615(C)(2)(c); N.D. R. CT. 7.2(b)(4).

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

RULE 11. SUBMISSION OF CONFIDENTIAL INFORMATION

Rule 11.01 Definitions

The following definitions apply for the purposes of this rule:

(a) "Restricted identifiers" shall mean the following numbers of a party or other person: complete or partial social security number, complete or partial employer identification number, and financial account numbers other than the last four numbers of a financial account number that is not also a social security number.

(b) "Financial source documents" means income tax returns, W-2 forms and schedules, wage stubs, credit card statements, financial institution statements, check registers, and other financial information deemed financial source documents by court order.

(Amended effective July 1, 2014.)

Rule 11.02 Restricted Identifiers

(a) Pleadings and Other Documents Submitted by a Party. No party shall submit restricted identifiers on any pleading or other document that is to be filed with the court except when the information is germane and necessary for the court's consideration of the issues then before the court. If it is necessary to provide restricted identifiers to the court, they must be submitted in either of the following two ways:

(1) on a separate form entitled Confidential Information Form (see Form 11.1 as published by the state court administrator) filed with the pleading or other document; or

(2) on Confidential Financial Source Documents under Rule 11.03.

The Confidential Information Form (Form 11.1) shall not be accessible to the public.

The parties are solely responsible for ensuring that restricted identifiers do not otherwise appear on the pleading or other document filed with the court. The court administrator will not review each pleading or document filed by a party for compliance with this rule. Notwithstanding this provision, the court administrator may take any action consistent with Rule 11.04.

(**b) Records Generated by the Court**. Restricted identifiers maintained by the court in its register of actions (i.e., activity summary or similar information that lists the title, origination, activities, proceedings and filings in each case), calendars, indexes, and judgment docket shall not be accessible to the public. Courts shall not include restricted identifiers on judgments, orders, decisions, and notices except on the Confidential Information Form (Form 11.1), which shall not be accessible to the public.

(c) Certification. Every filing shall constitute a certification by the filer that the documents filed contain no restricted identifiers, except as permitted in section (a) of this rule. For documents filed using the E-Filing System, this certification may additionally be provided by electronically acknowledging the certification statement in the manner designated by the E-Filing System.

(Amended effective July 1, 2015.)

Rule 11.03 Confidential Financial Source Documents

(a) Cover Sheet Required. Financial source documents shall be submitted to the court under a cover sheet designated "Confidential Financial Source Documents" and substantially in the form set forth as Form 11.2 as published by the state court administrator.

Financial source documents submitted with the required cover sheet are not accessible to the public except to the extent that they are admitted into evidence in a testimonial hearing or trial or as provided in Rule 11.05 of these rules. The cover sheet or copy of it shall be accessible to the public.

(b) Closed Account Statements. Statements from a permanently closed (also known as "charged off") credit card or financial institution account that has been identified as a closed account in the related pleading or other filed document need not be submitted as a confidential financial source document under rule 11.03 of these rules unless desired by the filing party or as directed by the court.

(c) Absence of Cover Sheet. Financial source documents that are not submitted with the required cover sheet are accessible to the public, but the court may, upon motion or on its own initiative, order that any such financial source document be confidential.

(Amended effective July 1, 2015.)

Rule 11.04 Failure to Comply

If a party fails to comply with the requirements of this rule in regard to any person's restricted identifiers or financial source documents, the court may upon motion or its own initiative impose appropriate sanctions, including costs necessary to prepare an appropriate document for filing.

Upon discovery that a document containing restricted identifiers has not been submitted in a confidential manner as required by this rule, the court administrator shall file it with a temporary non-public status pending redaction or court order and direct the filer to, within 21 days, either:

(1) serve and file a properly redacted filing and pay any prescribed monetary fee to the court, and, if the party desires that the filing date of the resubmitted document(s) relates back to the filing date of the original document(s), serve and file a motion requesting the relation-back to the original filing date; or

(2) file a motion for relief from the court.

Any other party may oppose the motion seeking relation-back to the original filing date within the same time limits as are provided by law for the type of document(s) being filed. If a filer timely pays the monetary fee, and timely requests relation-back of the filing date, the court may order that the filing date of the properly submitted document(s) relate back to the filing date of the original document(s).

If no action is taken within 21 days after notice, the filing shall be stricken.

(Amended effective July 1, 2015.)

Rule 11.05 Procedure for Requesting Access to Confidential Financial Source Documents

(a) Motion. Any person may file a motion, supported by affidavit showing good cause, for access to Confidential Financial Source Documents or portions of the documents. Written notice of the motion to all parties is required.

(b) Waiver of Notice. If the person seeking access cannot locate a party to provide the notice required under this rule, after making a good faith reasonable effort to provide such notice as required by applicable court rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provisions of this rule. The court may waive the notice requirement of this rule if the court finds that further good faith efforts to locate the party are unlikely to be successful.

(c) Balancing Test. The court shall allow access to Confidential Financial Source Documents, or relevant portions of the documents, if the court finds that the public interest in granting access or the personal interest of the person seeking access outweighs the privacy interests of the parties or dependent children. In granting access the court may impose conditions necessary to balance the interests consistent with this rule.

(Amended effective July 1, 2015.)

Rule 11.06. When Documents May Be Filed as Confidential or under Seal

A party may submit a document for filing as a "confidential document" or "sealed document" only if one of these circumstances exists:

(a) The court has entered an order permitting the filing of the particular document or class of documents under seal or as confidential.

(b) This rule or any applicable court rule, court order, or statute expressly authorizes or requires filing under seal or as confidential.

(c) The party files a motion for leave to file under seal or as confidential not later than at the time of submission of the document.

The court may require a filing party to specify the authority for asserting that a filing is a "confidential document" or "sealed document." For purposes of this rule, the terms "confidential document" and "sealed document" shall have the meanings set forth in Rule 14.01. Additional requirements for electronically submitting a document as confidential or sealed in the E-Filing System are set forth in Rule 14.06.

Advisory Committee Comment—2005 Adoption

Rule 11 is a new rule, but is derived in part from former Rule 313. It is also based on Wash. GR 22 (2003). Under this rule, applicable in all court proceedings, parties are now responsible for protecting the privacy of restricted identifiers (social security numbers or employer identification numbers and financial account numbers) and financial source documents by submitting them with the proper forms. Failure to comply

would result in the public having access to the restricted identifiers and financial source documents from the case file unless the party files a motion to seal them or the court acts on its own initiative under Rule 11.03. The Confidential Information Form from Rule 313 is retained, modified, and renumbered, and a new Sealed Financial Source Documents cover sheet has been added. The court retains authority to impose sanctions against parties who violate the rule in regard to another individual's restricted identifiers or financial source documents.

New in 2005 is the procedure for obtaining access to restricted identifiers and sealed financial source documents. This process requires the court to balance the competing interest involved. See, e.g., Minneapolis Star & Tribune Co. v. Schumacher, 392 N.W.2d 197 (Minn. 1986) (when party seeks to restrict access to settlement documents and transcripts of settlement hearings made part of civil court file by statute, court must balance interests favoring access, along with presumption in favor of access, against those asserted for restricting access).

Advisory Committee Comment—2007 Amendment

The 2007 amendment to Rule 11.01(a) expands the rule to protect the restricted identifiers of all persons, not just a party and a party's child. Records submitted to the court may include restricted identifiers of persons other than a party or the party's child, such as clients or other fiduciaries.

The 2007 amendment to Rule 11.03 recognizes that if a sealed financial source document is formally offered and admitted into evidence in a testimonial hearing or trial the document will be accessible to the public to the extent that it has been admitted. This is the result under Wash. GR 22 (2006) upon which this rule is based. In such situations, it is strongly recommended that restricted identifiers be redacted from the document before its admission into evidence.

Advisory Committee Comment—2009 Amendment

Rule 11 is amended to remove Forms 11.1 and 11.2 from the rules and to correct the reference to the forms in the rule. This amendment will allow for the maintenance and publication of the form by the state court administrator. The form, together with other court forms, can be found at http://www.mncourts.gov/.

Forms 11.1 and 11.2 should be deleted from the rules and maintained in the future on the court's website.

Advisory Committee Comment—2012 Amendment

Rule 11.06 is a new rule intended to define the procedural prerequisites for filing of documents under seal. This rule is not intended to expand or limit the confidentiality concerns that might justify special treatment of any document. The rule is intended to make it clear that filing parties do not have a unilateral right to designate any filing as confidential, and that permission from the court is required. This permission may flow from a statute or rule explicitly requiring that a particular document or portion of a document be filed confidentially or from a court order that documents be filed under seal.

Rule 112 of the Minnesota Rules of Civil Appellate Procedure contains useful guidance on how confidential information can be handled. Where documents contain both confidential and non-confidential information, it may be appropriate to file redacted "public" versions of documents filed under seal.

Advisory Committee Comment—2015 Amendments

The amendments to Rule 11 are intended to advance the important interests in preventing the filing of confidential and sensitive information in publicly accessible court files. The amendment to Rule 11.02(a) reminds filers that the best way to prevent public access to sensitive personal information is not to file it with the court unless needed. If a social security number, financial institution record, home address, and any other information defined to be a restricted identifier under the rule is not required for the adjudication of a matter before the court, simply omitting it from the filing prevents any further risk of disclosure. If the information is necessary, then using the other procedures of Rule 11.02 is necessary. The consequences of failing to comply with the rule include sanctions against the filer, and if failure to follow the rule causes injury to any person, an action for damages may lie.

There are very few statutes that require the filing of restricted identifiers. They may be required in certain family child support cases, see Minn. Stat. §§ 256.87, subd. 1a; 257.66, subd. 3; 518.10; 518A.56; and 42 U.S.C. § 666(a)(13), which currently require the court to identify the parties by social security number. Minn. Stat. § 548.101 requires the disclosure of the last four digits of a debtor's social security number, if known, in cases involving assigned consumer debt. Social security numbers were required for filings to commence informal probate or appointment proceedings until 2006. See 2006 Minn. Laws, ch. 221, § 20, amending Minn. Stat. § 524.3-301.

Rule 11.02(c) is new and provides that filing constitutes certification that the document does not contain unauthorized restricted identifiers. For documents filed electronically, this certification may additionally be made explicitly by checking the appropriate box on a screen that will be incorporated into the e-filing process. See also Rule 14.06. As is true for other rules, failure to follow the rule, or the making of a false certification, may warrant the imposition of sanctions as may be authorized by other rules or under the court's inherent power.

Rule 11.06 is intended to provide important guidance on when documents may be filed as confidential or under seal. The rule permits these filings in only three circumstances. As part of the implementation of this rule, filers should expect that the E-Filing System of the court will ask the filer to specify which basis for filing as confidential or under seal is being relied upon for that filing. If an order in the case, statute, or court rule does not expressly permit or require filing of the document under seal or as confidential, a motion must be brought to request approval of filing that document under seal or as confidential not later than the time of filing.

Rule 11.06 specifies the procedure used by a filer for filing under seal or as confidential. Additionally, the court can at any time treat a document containing restricted identifiers as confidential until the parties or court can ensure the document properly conforms to the requirements of Rule 11.

RULE 12. REQUIREMENT FOR COMPARABLE MEANS OF SERVICE

Except where e-filing and e-service is required by court order or rule, the parties may file and serve by any available method, but must select comparable means of service and filing so that the documents are delivered substantially contemporaneously. This rule does not apply to service of a summons or a subpoena. Pleadings and other documents need not be filed until required by Minn. R. Civ. P. 5.05 and motions for sanctions may not be filed before the time allowed by Minn. R. Civ. P. 11.03(a).

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

(Amended effective July 1, 2015.)

Advisory Committee Comment—2008 Amendment

Rule 12 is a new rule, recommended to codify a longstanding practice of professional courtesy: that papers served both to the court and to the other party be served and filed by comparable means. The rule does not require that the same means be used; but if hand delivery to the court is chosen for filing, then either hand delivery, overnight courier sent the day before, or facsimile transmission to other party must be used. The measure of compliance is approximate simultaneity; the purpose of the rule is to discourage gameplaying over service. Fairness requires that service and filing occur at about the same time; delivering papers immediately to the court and then serving them leisurely upon counsel is not justified and in some cases is not fair.

Advisory Committee Comment—2009 Amendment

Rule 12 is amended to add the last sentence of the first paragraph. The amendment is intended to clarify that the rule does not modify two facets of practice established before its adoption. It does not require that pleadings be filed before the time allowed under Rule 5.05, which generally makes it unnecessary to file pleadings until after a party files a pleading, thereby opening a court file. This rule is a part of Minnesota's "hip-pocket" service regime as established by Minn. R. Civ. P. 3. Rule 11 of the Minnesota Rules of Civil Procedure contains a 21-day "safe harbor" provision, requiring service of a motion for sanctions but prohibiting filing of the motion for 21 days. The amendment to Rule 12 of the general rules was not intended to modify that important provision.

Advisory Committee Comment—2015 Amendments

The amendment to Rule 12 is intended to retain the existing rule requiring that parties serve and file documents by comparable means, but adapts it to specify that if e-filing or e-service are required, then those methods must be used. This rule is intended to eliminate strategic maneuvering with service, and attorneys and self-represented litigants should expect that this rule will be interpreted to penalize attempts to gain some perceived advantage over other parties by serving and filing by different means.

A self-represented litigant who elects not to use the E-Filing System may expect that an opposing attorney may e-file a document with the court and serve it by U.S. mail on the self-represented litigant on the same day. In this circumstance, the filing will precede the service, which is permitted under the rule as the attorney is required to use the E-Filing System to file the document.

RULE 13. REQUIREMENT TO PROVIDE NOTICE OF CURRENT ADDRESS

Rule 13.01. Duty to Provide Notice

In all actions, it is the responsibility of the parties, or their counsel of record, to provide notice to all other parties and to the court administrator of their current address for delivery of notices, orders, and other document in the case. Where a party or a party's attorney has provided an e-mail address for the purpose of allowing service or filing, this rule also requires that the party advise the court and all parties of any change in that e-mail address. Failure to provide this notice constitutes waiver of the right to notice until a current address is provided.

Rule 13.02. Elimination of Requirement to Provide Notice to Lapsed Address

In the event notices, pleadings or other documents are returned by the postal service or noted as undelivered or unopened by the e-mail system after the court administrator's transmission by mailing (or e-mailing where authorized by rule) to a party or attorney's address of record on two separate occasions, the administrator should make reasonable efforts to obtain a valid, current address. If those efforts are not successful, the administrator may omit making further United States Mail transmissions to that party or attorney in that action, and shall place appropriate notice in the court file or docket indicating that notices are not being mailed to all parties.

Advisory Committee Comment—2009 Amendment

Rule 13 is a new rule intended to make explicit what has heretofore been expected of parties and their counsel: to keep the court apprised of a current address for mailing notices, orders, and other papers routinely mailed by the administrator to all parties. Where the court does not have a valid address, evidenced by two returned mailings, and cannot readily determine the correct address, the rule makes it unnecessary for the administrator to continue the futile mailing of additional papers until the party or attorney provides a current address.

The purpose of this rule is to require meaningful notice. If a party is a participant in the Secretary of State's address confidentiality program, there is no reason not to permit the use of that address to satisfy the requirement of this rule. See Minn. Stat. §§ 5B.01-.09 (2008).

Advisory Committee Comment—2012 Amendment

Rule 13.01 is amended to add the requirement that a party or attorney provide an updated e-mail address any time an attorney or party has submitted an e-mail address to

the court. This change is intended to ensure that e-noticing under Minn. R. Civ. P. 77.04 and electronic filing and service under the rules will function and provide meaningful notice. Rule 13.02 is amended to make it clear that the giving of e-mail notice will not be ended upon two unsuccessful attempts to serve or notify by e-mail. The committee believes that there is no compelling reason to stop e-mailed notices given the minimal additional cost of continuing them.

RULE 14. E-FILING AND E-SERVICE

Rule 14.01. Mandatory and Voluntary E-File and E-Service

(a) Definitions. For purposes of the General Rules of Practice, unless otherwise indicated, the following terms have the following meanings:

(1) "Confidential document" (which may include "Confidential 1" and "Confidential 2," etc., as available and defined by the E-Filing System document security classifications) means a document that will not be accessible to the public, but will be accessible to court staff and, where applicable, to certain governmental entities as authorized by law, court rule, or court order.

(2) "Conventionally" means, with respect to the filing or serving of documents or other materials, the filing or serving of documents or other materials through any means other than through the E-Filing System in accordance with Rule 14.

(3) "Court Integration Services" means computer systems that allow direct computer-system-to-computer-system integrations to facilitate the electronic exchange of documents and data between the court's electronic case management system and a government agency's electronic information system. Government agencies may register for Court Integration Services under the process established by the state court administrator.

(4) "Designated Provider" means the electronic filing service provider designated by the state court administrator.

(5) "Designated e-mail address" shall have the meaning set forth in rule 14.02(a).

(6) "E-Filing System" means the Designated Provider's Internet-accessible electronic filing and service system.

(7) "Electronic means" means transmission using computers or similar means of transmitting documents electronically, including facsimile transmission.

(8) "Registered User" means a person registered with the Designated Provider and authorized to file and serve documents electronically through the E-Filing System under these rules.

(9) "Sealed document" means a document that will not be accessible to the public but will be accessible to court staff with only the highest security level clearance.

(10) "Select Users" means the following appearing or submitting documents in a case:

(i) Attorney;

(ii) Government agency (including a sheriff); and

(iii) Guardian ad litem.

(11) "Self-represented litigant" means an individual, other than a licensed attorney, who represents himself or herself in any case or proceeding before the court.

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

(1) Cases Subject to Mandatory E-Filing and E-Service. Effective July 1, 2015, unless otherwise required or authorized by these rules, other rules of court, or an order of the court, Select Users in any case in the Second Judicial District, Fourth Judicial District, and in the districts or portions thereof designated by the state court administrator, shall file all documents electronically with the court through the E-Filing System and shall serve documents electronically through the E-Filing System as required under Rule 14.03(d) of these rules.

Effective July 1, 2016, unless otherwise required or authorized by these rules, other rules of court, or an order of the court, Select Users in any case throughout the State of Minnesota shall file all documents electronically with the court through the E-Filing System and shall serve documents electronically through the E-Filing System as required under Rule 14.03(d) of these rules.

(2) Prohibited E-Filing. The following documents may not be filed electronically in proceedings related to:

(i) Wills deposited for safekeeping under Minn. Stat. § 524.2-515; and

(ii) All documents in parental notification bypass proceedings under Minn. Stat. § 144.343.

(3) Request for Exception to Mandatory E-File and E-Service Requirement. A Select User required to file and serve electronically under this rule, may request to be excused from mandatory e-filing and e-service in a particular case by motion to the Chief Judge of the judicial district or his or her designee. An opt-out request may be granted for good cause shown. If an opt-out request is granted, court personnel shall scan all documents filed conventionally into the court's computer system and may charge the filing party an appropriate fee.

(4) Voluntary E-File and E-Serve. Effective July 1, 2015 and ending July 1, 2016, Select Users designated by the state court administrator may, upon registering with the Designated Provider, electronically file documents with the court in the locations and cases designated by the State Court Administrator. In any designated case in which the designated and registered Select User has electronically filed a document with the district court, any other Select User designated by the state court administrator, may also electronically file documents in the case after registering with the Designated Provider. Registered Select Users shall also electronically serve documents on other Select Users in such cases as required under Rule 14.03(d) of these rules.

(5) **Self-Represented Litigants Voluntary and Mandatory E-File and E-Serve**.

(i) Election to Use E-Filing System. Unless otherwise required or authorized by these rules, other rules of court, or an order of the court, in any county where electronic filing and service is authorized, a self-represented litigant may elect to use the E-Filing System to electronically file and serve. But unless otherwise ordered by the presiding judge or judicial officer, a self-represented litigant is not required to do so. Once a self-represented litigant has elected or has been ordered to use the E-Filing System for filing and service and has become a Registered User, that individual must thereafter electronically file and serve all documents in that case unless otherwise required or authorized by these rules or the court, and shall be subject to all applicable requirements and obligations imposed upon Registered Users as set forth in these rules.

(ii) Excuse and Prohibition. A self-represented litigant who has elected to use the E-Filing System may be excused from the requirement to electronically file and serve only upon motion to the court and for good cause shown. If the court becomes aware of any misuse of the E-Filing System by a self-represented litigant or deems it appropriate in the exercise of discretion, considering the need for the just, speedy, and inexpensive determination of every action, the court may, without prior notice, revoke the self-represented litigant's right to use the E-Filing System in the case and require the individual to file and serve all documents conventionally. Self-represented litigants are excused from using the E-Filing System while under any court-imposed restriction of access to use of the internet.

(iii) Case Initiating Documents. Statutes or court rules may require that certain case-initiating documents be served by conventional means. *See, e.g.*, Rule 5.02(b) of the rules of civil procedure (original complaint in civil cases).

(iv) Other Electronic Filing and Service Options. When authorized by order of the Supreme Court, self-represented litigants may use an alternative electronic filing system designated in such order. *See, e.g.*, Order Authorizing E-Filing/E-Service Pilot Project for Self-Represented Petitioners, No. ADM10-8011, (Minn. filed June 24, 2013) (applicable to orders for protection and harassment restraining order proceedings in counties designated by the state court administrator; commonly referred to as the MyCourtMN portal).

(6) **Non-Party Participants**.

(i) Election to Use E-Filing System. In any county where electronic filing and service is authorized, individuals who are not Select Users or self-represented litigants (e.g., special masters, bondspersons, examiners, potential intervenors, etc.) but who need to submit documents to the court for filing may elect to use the E-Filing System and become a Registered User but unless otherwise ordered by the presiding judge or judicial officer shall not be required to do so. Any individual or entity authorized to use the E-Filing System pursuant to this paragraph, who becomes a Registered User and transmits documents for filing or service through the E-Filing System shall be subject to all applicable requirements and obligations imposed upon Registered Users as set forth in these rules, and that individual must thereafter electronically file and serve all documents in that case unless otherwise required or authorized by these rules or the court.

(ii) Misuse. If the court becomes aware of any misuse of the E-Filing System by a non-party participant or deems it appropriate in the exercise of discretion, considering the need for the just, speedy, and inexpensive determination of every action, the court may, without prior notice, revoke the non-party participant's right to use the E-Filing System in the case and require the individual to file and serve all documents conventionally.

(7) **Court Integration Services**. Government agencies, as authorized by the state court administrator, shall be allowed to electronically file documents, electronically transmit data to the court, and electronically receive documents and data from the court, via Court Integration Services.

(8) **Conservators.** Conservators appointed by the court must electronically file their annual accounts and inventories using a computer application designated by the state court administrator. Directions for reporting shall be posted on the judicial branch website (www.mncourts.gov).

(c) Relief from Operation of this Rule.

(1) Technical Errors; Relief for Sending Party. Upon motion and a showing that electronic filing or electronic service of a document was not completed because of: (1) an error in the transmission of the document to the E-File System; (2) a failure of the E-Filing System to process the document when received; or (3) other technical problems experienced by the sending party or E-Filing System, the court may enter an order permitting the document to be deemed filed or served on the date and time it was first attempted to be transmitted electronically. If appropriate, the court may adjust the schedule for responding to these documents or the court's hearing.

(2) Technical Errors; Relief for Other Parties. Upon motion and a showing that an electronically served document was unavailable to or not received by a party served, the court may enter an order extending the time for responding to that document.

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

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

(b) Obligations and Responsibilities of Registered Users.

(1) A Registered User is responsible for all documents filed or served under the Registered User's username and password.

(2) If a Registered User knows that his or her login information has been misappropriated, misused or compromised in any way, he or she must promptly notify the court and change his or her login password.

(3) Any electronic transmission, downloading, or viewing of an electronic document under a Registered User's login username and password shall be deemed to have been made with the authorization of that Registered User unless and until proven otherwise by a preponderance of the evidence.

(4) A Registered User shall maintain a designated e-mail address for receiving electronic service and court notices for the duration of any case in which he or she has electronically transmitted a document for filing as a party or participant and until all applicable appeal periods have expired. A Registered User shall ensure that his or her designated e-mail address and account is current, monitored regularly, has not exceeded

its size limitation, and that all notices and document links transmitted to the designated e-mail account are timely opened and reviewed.

(5) A Registered User may not designate e-mail addresses for any other person or party who is not the Registered User's client, law firm staff, or co-counsel. The court may impose a sanction against any Registered User who violates this rule. It shall not be a violation for a Registered User when filing or serving documents using the E-Filing System to select service recipients who have been added to the service list for a case by another Registered User.

(Amended effective July 1, 2015.)

Rule 14.03. Filing and Service of Documents and Court Notices

(a) Availability of E-Filing System. Registered Users may electronically transmit documents for filing or service through the E-Filing System 24 hours a day, 7 days a week, except when the system is unavailable due to breakdown or scheduled maintenance.

(b) Filed Upon Transmittal. A document that is electronically filed is deemed to have been filed by the court administrator on the date and time of its transmittal to the court through the E-Filing System, and except for proposed orders, the filing shall be stamped with this date and time if it is subsequently accepted by the court administrator. If the filing is not subsequently accepted by the court administrator for reasons authorized in Rule 5.04 of the Rules of Civil Procedure, no date stamp shall be applied, and the E-Filing System shall notify the filer that the filing was not accepted. Upon receipt of a document electronically transmitted for filing by a Registered User, the E-Filing System shall confirm to the Registered User, through an automatically generated notification to the Registered User's designated e-mail address, that the transmission of the document was completed and the date and time of the document's receipt. Absent confirmation of receipt, there is no presumption that the document was successfully transmitted to the court. The Registered User is solely responsible for verifying that the court received all electronically transmitted documents.

(c) Effective Time of Filing. Any document electronically transmitted to the court through the E-Filing System for filing by 11:59 p.m. local Minnesota time shall be deemed filed on that date, so long as the document is not subsequently rejected for filing by the court administrator for a reason authorized by Rule 5.04 of the Rules of Civil Procedure. Filing by facsimile transmission, where authorized, is effective at the time the transmission is received by the court.

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

(1) **Service on Registered Users**. Except as otherwise permitted in subpart (3) below, where the party or person to be served is a Registered User, who has electronically filed a document in the case, service shall be accomplished through the E-Filing System by utilizing the electronic service function of the E-Filing System.

(2) **Service on Other Parties or Participants**. Where the party or participant to be served is not a Registered User or has not electronically filed a document in the case but has agreed to service by electronic means outside the E-Filing System (such as by e-mail), service may be made in the agreed upon manner. The presiding judge or judicial officer may also order that service on the non-Registered User be made by electronic means outside of the E-Filing System. Where service by electronic means is not required or permitted, another method of service authorized under applicable rules or law must be used.

(3) **Service of Discovery Material**. Unless required by court order, electronic service of discovery material through the E-Filing System shall be voluntary, and discovery material may be served in any manner authorized by the court rules, as agreed by the parties, or as ordered by the court. For purposes of this rule, discovery material includes but is not limited to:

(i) disclosures under Minn. R. Civ. P. 26, expert disclosures and reports, depositions and interrogatories, requests for documents, requests for admission, answers and responses thereto, and any other material as designated by the presiding judge or judicial officer; and

(ii) discovery requests and responses as defined in any applicable court rules, and

(iii) any other material as designated by the presiding judge or judicial officer.

(e) Effective Date of Service. Service 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. Service by facsimile transmission, where authorized, is complete upon the completion of the facsimile transmission.

(f) Court Notices. The court may transmit any document or notice to a Registered User through the E-Filing System. Notice is effective upon transmission of the document or notice to the E-Filing System by the court. The court may also transmit notices outside the E-Filing System as provided in Rule 14.02(a) or other applicable rules.

(g) Document Requirements and Format. Unless otherwise authorized by these rules or court order, all documents filed electronically shall conform to the document technical and size requirements as established by the state court administrator in the *Minnesota District Court Registered User Guide for Electronic Filing*. The *Guide* shall be posted on the judicial branch website (www.mncourts.gov).

(h) Non-conforming Documents. Where it is not feasible for a Registered User to convert a document to an authorized electronic form by scanning, imaging, or other means, or where a document cannot reasonably be transmitted through the E-Filing System in conformance with the document's technical and size requirements as established by the state court administrator, the court may allow the Registered User to file the document conventionally. A motion to file a non-conforming document must be filed electronically. If the court grants the Registered User's motion to file a non-conforming document, the Registered User shall file and serve the non-conforming document conventionally.

(Amended effective July 1, 2015.)

Rule 14.04 Signatures

(a) Judge and Administrator Signatures. All electronically filed and served documents that require a judge's, judicial officer's, or court administrator's signature shall either capture the signature electronically under a process approved by the state court administrator pursuant to judicial branch policy or begin with a handwritten signature on paper that is then converted to electronic form by scanning, imaging, or other means such that the final electronic document has the judge's, judicial officer's, or court administrator's signature depicted thereon. The final electronic document shall constitute an original.

(b) Registered User and Non-Registered User Signatures.

(1) Registered Users. Every document electronically filed or served through the E-Filing System that requires the signature of the Registered User filing or serving the document shall be deemed to have been signed by the Registered User and shall bear the facsimile or typographical signature of such person, along with the typed name, address, telephone number, designated e-mail address, and, if applicable, attorney registration number of a signing attorney. The typographical or facsimile signatures of a Registered User shall be considered the functional equivalent of an original, handwritten signature produced on paper. A typographical signature shall be in the form: */s/ Pat L. Smith*.

(2) **Non-Registered Users**. Any document electronically filed or served through the E-Filing System that requires the signature of a person who is not the Registered User filing or serving the document shall bear the typed name, along with the facsimile or typographical signature, of such person. The person's typographical or facsimile signature shall be considered the functional equivalent of an original, handwritten signature produced on paper. A typographical signature shall be in the form: /s/ Pat L. Smith.

(c) Notary Signature, Stamp. Unless specifically required by court rule, documents, including affidavits, electronically filed or served through the E-Filing System are not required to be notarized. Where a signature under penalty of perjury is otherwise required, the provisions of part (d) of this rule apply. A document electronically filed or served through the E-Filing System that by court rule, specifically requires a signature of a notary public shall be deemed signed by the notary public if, before filing or service, the notary public has signed a printed or electronic form of the document and the electronically filed or served document bears a facsimile or typographical notary signature and stamp.

(d) Perjury Penalty Acknowledgment. A document electronically filed or served through the E-Filing System that requires a signature under penalty of perjury may, with the same force and effect and in lieu of an oath, be supported by an unsworn declaration, provided that the typographical or facsimile signature of the declarant is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

(e) Certification; Retention. By electronically filing or serving a document Registered User is certifying compliance with the signature requirements of these rules for all signatures on the document, and the signatures on the document shall be considered the functional equivalent of original, handwritten signatures produced on paper.

(Amended effective July 1, 2015.)

Rule 14.05 Proof of Service

The records of the E-Filing System indicating transmittal to a Registered User recipient shall be sufficient proof of service on the recipient for all purposes.

(Amended effective July 1, 2015.)

Rule 14.06 Sealed and Confidential Documents

Any interested person must seek and obtain advance approval from the court, with notice of the request to all parties, to submit a document to the court for in camera review. A document submitted for in camera review shall be submitted to the court outside the E-Filing System by either:

(1) causing the document to be conventionally mailed or hand-delivered to the presiding judge or judicial officer, or

(2) upon approval of the presiding judge or judicial officer, transmitting the document to the presiding judge or judicial officer, via e-mail, as an attachment to an e-mail address as directed by the presiding judge or judicial officer. Any document submitted for in camera review must be clearly labeled "For In Camera Review" and, unless otherwise ordered by the court, shall be sealed and preserved as a court exhibit.

A Registered User electronically filing a document that is not accessible to the public in whole or in part under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules or court order, is responsible for designating that document as confidential or sealed in the E-Filing System before transmitting it to the court.

Upon review, the court may modify the designation of any document incorrectly designated as sealed or confidential and shall provide prompt notice of any such change to the Registered User who filed the document. A Registered User must seek advance approval from the court to transmit a document for filing designated as sealed or confidential if that document is not already inaccessible to the public under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules, or court order.

A document to be filed under seal or as confidential may be filed in paper form if required or permitted by the court. A motion to file a document in paper form under seal or as confidential must be filed and served electronically.

(Amended effective July 1, 2015.)

Rule 14.07 Records: Official; Appeal; Certified Copies

Documents electronically filed and paper documents conventionally filed but converted into electronic form by the court are official court records for all purposes. Certified copies may be issued in the conventional manner or in any manner authorized by law, provided that no certified copies shall be made of any proposed orders. Unless otherwise provided in these rules or by court order, a conventionally filed paper document need not be maintained or retained by the court after the court digitizes, records, scans or otherwise reproduces the document into an electronic record, document or image.

(Amended effective July 1, 2015.)

Advisory Committee Comment—2012 Amendment

Rule 14 is a new rule, drafted to provide a uniform structure for implementation of e-filing and e-service in the district courts. The rule is derived in substantial part, with modification, from the Judicial District E-Filing Pilot Project Provisions, adopted by the Minnesota Supreme Court on October 21, 2010, and amended on March 10, 2011.

Rule 14.01 defines the cases that are subject to mandatory e-filing and e-service. This rule is intended to evolve by amendment by order of the supreme court as additional case categories or additional judicial districts are added to the pilot project. The other requirements for e-filing and e-service are not intended to see frequent amendment, and the committee believes the rules for e-filing and e-service, when authorized, should be maintained as uniform rules statewide.

Rule 14.01(d) provides for requests to be excused from required use of e-filing and e-service, and creates a "good cause" standard for granting that relief. There are few circumstances where the court should grant exemption from the requirements.

Because cases in Minnesota may be commenced by service rather than by filing with the court, the use of e-service under the court's system is possible only after the action has been commenced and is filed, and service may then be effected electronically only on an attorney or party who registers with the system and provides an e-mail address at which service from other parties and notices from the court can be delivered. Rule 14.02 sets forth this procedure. Rule 13.01 imposes an affirmative duty on parties and their attorneys to advise the court of any changes in their address, including their e-mail address.

The format requirements for documents are superficially the same as for other documents—they should be based on an 8½ by 11 inch format, with a caption at the top and signature block at the end. But they are in fact filed as electronic records on a computer service and served on other parties by e-mail. Rule 14.03 defines the available electronic format for these documents and other requirements applicable to e-filed and e-served documents.

Rule 14.04 establishes the means by which electronic documents are "signed." The rule explicitly states the standard that e-filed and e-served documents as they reside on the computer system used by the court constitute originals, and are not mere copies of documents. The rule does not require the signing or retention of a paper copy of any filed

document. It may be prudent for a litigant to maintain copies of these documents as duplicate originals in some limited circumstances, such as where an affidavit is signed by a non-party who may not be available if a dispute were to arise over authenticity.

Rule 14.06 establishes a specific procedure for filing electronic documents that either contain confidential information or are filed under seal. This rule establishes the requirements for electronic documents that are consistent with the requirements in Rule 11.06. Neither rule is intended to expand or limit the confidentiality concerns that might justify special treatment of any document. Under Rule 11.06, filing parties do not have a unilateral right to designate any filing as confidential, and prior permission in some form is required. This permission may flow from a statute or rule explicitly requiring that a particular document or portion of a document be filed confidentially or from a court order that documents be filed under seal. Rule 112 of the Minnesota Rules of Civil Appellate Procedure contains useful guidance on how confidential information can be handled. Where documents contain both confidential and non-confidential information, it may be appropriate to file redacted "public" versions of confidential or sealed documents.

Rule 14.06 also permits a party to seek either permission or a requirement that certain sealed or confidential documents be filed in paper format. This provision recognizes that certain information may be so sensitive or valuable that placing it in a sealed envelope with a clear warning that it is not to be opened except by court order may be the appropriate means to assure confidentiality.

The security designations "confidential" and "sealed" reflect the security classifications available in the courts case management system. In addition to court staff access, some confidential documents (e.g., in Domestic Violence, Juvenile Delinquency, and Parent/Child relationship cases) may be accessible to certain government entities who have demonstrated a need for access and have signed appropriate nondisclosure agreements. See, e.g., Rule 8, subd. 4(b), of the Rules of Public Access to Records of the Judicial Branch (authorizing access by county attorneys and public defenders, among others).

Pursuant to Minn. R. Civ. P. 5.06, a document that is electronically filed is deemed to have been filed by the court administrator on the date and time of its transmittal to the District Court through the E-Filing System, and the filing shall be stamped with this date and time subject to acceptance by the court administrator. If the filing is not subsequently accepted by the court administrator for reasons authorized by Minn. R. Civ. P. 5.04, the date stamp shall be removed and the document electronically returned to the person who filed it.

Advisory Committee Comment—2015 Amendments

The amendments to Rule 14 address several important aspects of the use of the court's e-filing and e-service system. This rule is the workhorse rule for implementation of e-filing and e-service, and governs in all courts and types of cases where e-filing is either required or permitted.

It is worthwhile to understand the reason for "required or permitted" language in the rules. As a means to accomplish orderly and efficient transition to judicial branch-wide requirement for e-filing and e-service, the courts have generally begun with

permissive use of e-filing and e-service for a subset of the court's business. The courts have then gradually moved to mandatory use in these matters, by all attorney filers.

Several of the changes are not substantive in nature or intended effect. The replacement of "paper" with "document" is made throughout these rules, and simply advances precision in choice of language. Most documents will not be filed as "paper" documents, so paper is retired as a descriptor of them. "Self-represented litigant" is being used uniformly throughout the judicial branch, and is preferable to "non-represented party" and "pro se party," both to avoid a Latin phrase not used outside legal jargon and to facilitate the drafting of clearer rules.

Rule 14.01(a) is amended to update the definitions, and includes terms previously defined in Rule 14.06. The term "Self-Represented Litigant" is defined and is used in preference to "pro se party" to use a term more readily understood. The rule also makes it clear that only non-lawyers are treated as "Self-Represented Litigants." A lawyer who is licensed to practice, is a party to a case, and is not otherwise represented is treated as a represented party.

Rule 14.01(b) is updated to establish the current status of electronic filing and electronic service, and to provide for the expanding requirements for use of the electronic means for these functions. The rule implements a clear mandate that represented parties and government agencies must serve and file using the court's system unless otherwise provided by rule or order. Government agencies here would include governmental parties to litigation and other agencies, such as a county sheriff's office, that are regularly involved in the litigation process.

Rule 14.03(d)(2) recognizes that any means of service may suffice under the rules if the party to be served has consented to its use. Thus, service by e-mail outside the court's system is acceptable and effective if the parties have consented to it. In the event a stipulation is made on this subject, however, the parties should specify when that service is effective, as the rules may not establish that date or time. Although there is virtually no limit on how service could be effected with consent of the party being served, in the absence of consent only the methods explicitly authorized by the rules are effective. Rule 14.03(d)(2) deals particularly with special categories of cases where there typically are non-party participants, such as non-party guardians ad litem, probation officers or other court services personnel, victim advocates, or similar interested persons.

The effective date for service is important for most documents. Rule 14.03(e) provides the default rule for most service events. In the event the E-Filing System is not available, Rule 14.01(c) may provide some relief to a party who might otherwise miss a deadline. Rule 14.03(f) recognizes that courts may wish to provide notices to the parties by e-mail without using the court's E-Filing System. This desire is driven by a lack of integration between the court's MNCIS case management system and the e-serve function in the court's E-Filing System. Where the notice is substantively important, such as in child support magistrate cases where the date and time of notice begins the appeal period, the courts should avoid giving formal notices outside the e-service system. Efforts should be made by the courts to remove any barriers to use of the E-Filing System by court personnel since that process will be understood by the parties and generates a record that may be of interest to the parties.

Rule 14.06 is amended to delete the definitions of how various confidential and sealed records will be accessible within the judiciary. These definitions are now set forth in Rule 14.01(a), along with other definitions.

Rule 14.07 as amended to make it clear that even when documents are filed in paper form, the court may scan and digitize their content, and retain only the electronic record of the filing. Ultimately, the duration of retention of that electronic record will be governed by the court's record retention schedule. See District Court Record Retention Schedule 2014, published on the main Minnesota Courts website, www.mncourts.gov under "Justice Partner Resources."

RULE 15. AFFIDAVITS

Unless otherwise specified in any court rule, the term "affidavit" means:

(a) a document that has been signed, sworn, and notarized; and

(b) a document that has been signed under penalty of perjury pursuant to Minn. Stat. § 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

(Adopted effective July 1, 2015.)

Advisory Committee Comment—2015 Amendments

Rule 15 is a new rule, included to the address issues relating to the adoption of Minn. Stat. § 358.116 (2014)(codifying 2014 Minn. Laws ch. 204, § 3). The statute allows the courts to require specifically, by rule, that notarization is necessary for particular situations. This rule is intended to improve public access to the courts by removing what may be an unnecessarily difficult obstacle—obtaining a notarization of a signature.

Subdivision (a) of the rule applies to any document that is "signed, sworn, and notarized." This category includes documents signed and sworn to before ex officio notaries, such as deputy court administrators. See Minn. Stat. § 358.15. It would also apply to affidavits signed outside Minnesota to the extent authorized by statute. See Minn. Stat. §§ 358.46–.48.

RULE 16. PAGINATION OF COURT FILINGS AND EXHIBITS

Each document filed with the court must, to the extent feasible, be consecutively paginated from beginning to end, including any attachments. Trial or other exhibits must be similarly numbered.

(Adopted effective July 1, 2015.)

Advisory Committee Comment—2015 Amendments

Rule 16 is a new rule intended to create a uniform practice in the submission of documents to the court in all types of cases. The goal is that any part of the record will be able to be identified by either its title or a unique docket number and a single, serial, page number. Documents should begin on the first page as it is filed or served as page 1 and should continue in sequence to the last page of the document's attachments, if any. (Attachments should be numbered in sequence, and without beginning a new sequence for any attachments.)

The rule does not dictate the location for page numbers, but they should normally be placed at the bottom of the page in a consistent place, either centered or in the lower right hand corner. The best location may vary to obviate obscuring any important information on the document. Placing numbers unduly close to the edge of the document may result in removal or truncation of the number in imaging or duplication, so a reasonable margin should be used. The rule does not require any format or process for applying the required page numbers.

This rule is intended to allow counsel, trial courts, and the appellate courts to locate portions of the record easily and with accuracy. The rule applies to all documents, but will be particularly valuable for affidavits with numerous attachments or trial exhibits that are not already paginated. Compliance with the rule will make it possible to avoid lengthy dialogue to get the court and counsel all on the correct page of a lengthy exhibit.