

MAY 24 2012

FILED

STATE OF MINNESOTA

IN SUPREME COURT

ADM 10-8011

ADM04-8001 (formerly C6-84-2134)

ADM09-8009 (formerly CX-89-1863)

ADM10-8050 (formerly C4-85-1848)

ORDER PROMULGATING AMENDMENTS REGARDING
E-FILING TO THE RULES OF CIVIL PROCEDURE,
GENERAL RULES OF PRACTICE, AND RULES OF
PUBLIC ACCESS TO RECORDS OF THE JUDICIAL BRANCH

The Supreme Court Advisory Committee on the Rules of Civil Procedure has recommended certain amendments to the Rules of Civil Procedure, the General Rules of Practice for the District Courts, and the Rules of Public Access to Records of the Judicial Branch regarding the authorization of mandatory and voluntary e-filing and e-service. The Court has reviewed the proposals and is advised in the premises.

IT IS ORDERED THAT:

1. The attached amendments to the Rules of Civil Procedure, the General Rules of Practice for the District Courts, and the Rules of Public Access to Records of the Judicial Branch be, and the same are, prescribed and promulgated to be effective September 1, 2012.

2. These amendments shall apply to all actions or proceedings commenced on or after the effective date.

3. Upon the effective date of this order, the order of this court dated March 10, 2011, for the Judicial District E-Filing Pilot Project, ADM10-8011, is superseded.

4. To the extent of any conflict between the terms of these amendments as they relate to voluntary e-filing and e-service and rules 401 to 418, 501 to 525, and 601 to 612 of the General Rules of Practice for the District Courts, and the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act, the terms of these amendments as they relate to voluntary e-filing and e-service shall prevail.

5. The inclusion of advisory committee comments is made for convenience and does not reflect court approval of the statements made therein.

Dated: May 24, 2012

BY THE COURT:

A handwritten signature in cursive script, reading "Lorie S. Gildea", written over a horizontal line.

Lorie S. Gildea
Chief Justice

AMENDMENTS TO MINNESOTA RULES OF CIVIL PROCEDURE

[Note: new material is indicated by underscoring, except committee comments, which are all new; deleted material is indicated by strikethrough]

RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

Rule 5.01. Service; When Required; Appearance

Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every written motion other than one that may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar ~~paper~~document shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4. A party appears when that party serves or files any ~~paper~~document in the proceeding.

Rule 5.02. Service; How Made

(a) Methods of Service. Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party is ordered by the court. Written admission of service by the party or the party's attorney shall be sufficient proof of service. Service upon the attorney or upon a party shall be made by delivering a copy to the attorney or party; transmitting a copy by facsimile machine to the attorney's or party's office; or by mailing a copy to the attorney or party at the attorney's or party's last known address or, if no address is known, by leaving it with the court administrator. Delivery of a copy within this rule means: Handing it to the attorney or to the party; or leaving it at the attorney's or party's office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the attorney's or party's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. If service is either authorized or required to be made by electronic means by these rules, delivery shall be accomplished by compliance with subdivision (b) of this rule.

(b) E-Service. Service of all ~~papers~~documents after the original complaint may, and where required by these rules shall, be made by electronic means other than facsimile transmission if authorized by Rule 14 of the Minnesota General Rules of Practice and if service is made in accordance with that rule. ~~Service by authorized electronic means is complete upon completion of the electronic transmission.~~

(c) Effective Date of Service. Service by mail is complete upon mailing. Service by facsimile is complete upon completion of the facsimile transmission. Service

by authorized electronic means using the court's E-Filing System as defined by Rule 14 of the Minnesota General Rules of Practice is complete:

(1) upon completion of the electronic transmission of the document(s) to the E-Filing System if the E-Filing System service command is used; and

(2) upon acceptance of the electronic filing by the court, as provided in Rule 14, if the E-Filing System joint service and filing command is used.

(d) Technical Errors; Relief. Upon satisfactory proof that electronic filing or electronic service of a document was not completed, any party may obtain relief in accordance with Rule 14.01(f) of the General Rules of Practice. That relief may be available because of:

(1) an error in the transmission of the document to the authorized electronic filing and service system that was unknown to the sending party;

(2) a failure of the system to process the document when received, or

(3) other technical problems experienced by any party or system.

The court may enter an order permitting the document to be deemed filed or served as of the date 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, or provide other relief.

Rule 5.03. Service: Numerous Defendants

If the defendants are numerous, the court, upon motion or upon its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading with the court and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

Rule 5.04. Filing; Certificate of Service

All ~~papers~~documents after the complaint required to be served upon a party, together with a certificate of service, shall be filed with the court within a reasonable time after service, except expert disclosures and reports, depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless upon order of the court or for use in the proceeding.

73 The administrator shall not refuse to accept for filing any ~~paper~~documents
74 presented for that purpose solely because it is not presented in proper form as required by
75 these rules or any local rules or practices. Documents may be rejected for filing if
76 tendered without a required filing fee or a correct assigned file number, or are tendered to
77 an administrator other than for the court where the action is pending.

78 **Rule 5.05. Filing; Facsimile Transmission**

79 Except where filing is required by electronic means by rule of court, Aany
80 ~~paper~~document may be filed with the court by facsimile transmission. Filing shall be
81 deemed complete at the time that the facsimile transmission is received by the court and
82 the filed facsimile shall have the same force and effect as the original. Only facsimile
83 transmission equipment that satisfies the published criteria of the Supreme Court shall be
84 used for filing in accordance with this rule.

85 Within five days after the court has received the transmission, the party filing the
86 document shall forward the following to the court:

- 87 (a) a \$25 transmission fee for each 50 pages, or part thereof, of the filing;
- 88 (b) any bulky exhibits or attachments; and
- 89 (c) the applicable filing fee or fees, if any.

90 If a ~~paper~~document is filed by facsimile, the sender's original must not be filed
91 but must be maintained in the files of the party transmitting it for filing and made
92 available to the court or any party to the action upon request.

93 Upon failure to comply with the requirements of this rule, the court in which the
94 action is pending may make such orders as are just, including but not limited to, an order
95 striking pleadings or parts thereof, staying further proceedings until compliance is
96 complete, or dismissing the action, proceeding, or any part thereof.

97 **Rule 5.06. Filing Electronically**

98 Where authorized or required by rule promulgated by the Minnesota Supreme
99 Court, ~~papers~~documents may be filed electronically by following the procedures of such
100 rules and will be deemed filed in accordance with the provisions of ~~that order~~ this rule.

101 A document that is electronically filed is deemed to have been filed by the court
102 administrator on the date and time of its transmittal to the court through the E-Filing
103 System as defined by Rule 14 of the Minnesota General Rules of Practice, and the filing
104 shall be stamped with this date and time subject to acceptance by the court administrator.
105 If the filing is not subsequently accepted by the court administrator for reasons authorized
106 by Rule 5.04, the date stamp shall be removed and the document electronically returned
107 to the person who filed it.

Advisory Committee Comment—2012 Amendment

Rule 5.02 is amended to authorize service by use of an authorized e-filing and e-service system where allowed or required by court rule or supreme court order. This amendment takes effect in conjunction with the adoption of Rule 14 of the General Rules of Practice; that rule defines the cases in which electronic filing and service are either required or permitted, as well as what constitutes proof of service. Rule 5.02(c) addresses the fact of service. Just as service by postal mail is complete upon dropping the properly addressed and postage paid document into the mailbox, service using the court's E-Filing System is complete upon transmitting the electronic document to the E-Filing system using the appropriate service command. Rule 5.02(d) provides specific guidance for courts dealing with the rare, but probably inevitable, circumstance of the e-filing system either not being available or not functioning as intended. If applicable, the rule authorizes the court to deem pleadings served or filed (or both) when attempted and to adjust the time to respond as appropriate.

Rule 5.04 is amended to specify the limited situations where courts are not required to accept documents tendered for filing. These situations apply equally to documents tendered for filing electronically, by mail, or by hand-delivery to the court. Rejection for filing is not required in each of these situations, and it may be possible that certain format defects might be "fixed" at the time of filing. For example, if an incorrect file number is used on a document and it is detected at the time of attempted filing, it might be corrected; the administrator is still authorized to reject it for filing. An attempt to file a case using a new case number when the case has previously been filed may also be treated as not having the correct file number.

Rule 5.05 is amended to dovetail the facsimile filing and service provisions to mandatory use of e-filing and e-service in certain cases. Where the court rules require e-filing and e-service, filing and service by facsimile are not authorized. When e-filing and e-service are in use throughout the state and in all categories of cases, facsimile filing and service is likely to become unavailable.

Rule 5.06 is amended to clarify when electronic filing through the court's e-filing system is effective. E-filings are subject to acceptance by the court administrator and acceptance may or may not occur on the same day as the transmittal of the filing. If accepted by the court administrator, however, the e-filing party will get the benefit of the date and time of their transmittal as the effective date of their filing.

RULE 6. TIME

6.01. Computation

(a) Computation of Time Periods. In computing any period of time prescribed or allowed by these rules, by the local rules of any district court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a

- Saturday,
- Sunday,

- legal holiday, or,
- when the act to be done is the filing of a paper document in court, a day on which weather or other conditions result in the closing of the office of the court administrator of the court where the action is pending, or
- where filing or service is either permitted or required to be made electronically, a day on which unavailability of the computer system used by the court for electronic filing and service makes it impossible to accomplish service or filing,

in which event the period runs until the end of the next day that is not one of the aforementioned days.

(b) Periods Shorter than 7 Days. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(c) Definition of Legal Holiday. As used in this rule and in Rule 77(c), “legal holiday” includes any holiday designated in Minn. Stat. § 645.44, subd. 5, as a holiday for the state or any state-wide branch of government and any day that the United States Mail does not operate.

* * *

6.05. Additional Time After Service by Mail or Service Late in Day

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper document upon the party, and the notice or paper document is served upon the party by United States Mail, three days shall be added to the prescribed period. If service is made by any means other than United States Mail and accomplished after 5:00 p.m. local time on the day of service, one additional day shall be added to the prescribed period.

Advisory Committee Comment—2012 Amendment

Rule 6.01 is amended to add unavailability of the court-authorized e-filing and e-service system as a circumstance that would result in the extension of the time period. This extension applies only where the system problem occurs on the last day of the period and should only apply where the problem is not momentary. The rule requires that unavailability of the e-filing system actually prevent compliance with the service or filing requirements. This certainly eliminates use of a short-lived shutdown from extending the deadline except, possibly, where it occurs right at the end of the day. Where the shutdown occurs for a substantial part of the day and where it continues through the close of business, then the additional day would be automatically applied.

193 **RULE 11. SIGNING OF PLEADINGS, MOTIONS, AND OTHER PAPERS;**
194 **REPRESENTATIONS TO COURT; SANCTIONS**

195 **Rule 11.01. Signature**

196 Every pleading, written motion, and other ~~papers~~similar document shall be signed
197 by at least one attorney of record in the attorney's individual name, or, if the party is not
198 represented by an attorney, shall be signed by the party. Each ~~paper~~document shall state
199 the signer's address and telephone number, if any, and attorney registration number if
200 signed by an attorney. Except when otherwise specifically provided by rule or statute,
201 pleadings need not be verified or accompanied by affidavit. An unsigned ~~paper~~document
202 shall be stricken unless omission of the signature is corrected promptly after being called
203 to the attention of the attorney or party. If authorized by order of the Minnesota Supreme
204 Court, a ~~paper~~document filed, signed, or verified by electronic means in accordance with
205 that order constitutes a signed ~~paper~~document for the purposes of applying these rules.

206 The filing or submitting of a document using an E-Filing System established by
207 rule of court constitutes certification of compliance with the signature requirements of
208 applicable court rules.

209 * * *

210 **Rule 11.04. Inapplicability to Discovery**

211 Rules 11.01-.03 do not apply to discovery requests, responses, objections, and
212 motions that are subject to the provisions of Rules 26 through 37.

213 **Advisory Committee Comment—2012 Amendment**

214 Rule 11.01 is amended to add the second paragraph. The sole purpose of
215 the amendment is to make explicit the status of "signatures" affixed to
216 pleadings and other documents that are electronically served. Whatever means
217 is used to sign these documents, whether quill pen and ink, facsimile of a
218 signature, or an indication that the document is signed (such as a "/s/ Pat
219 Smith" notation), each will be treated the same way and deemed to be
220 signatures for all purposes under the rule.

222 **RULE 77. DISTRICT COURTS AND COURT ADMINISTRATORS**

223 * * *

224 **Rule 77.04. Notice of Orders or Judgments**

225 Immediately upon the filing of an order or decision or entry of a judgment, the
226 court administrator shall ~~serve~~ transmit a notice of the filing or entry by mail, e-mail, or
227 by use of an e-filing and e-service system, upon to every party affected thereby or upon
228 such party's attorney of record, whether or not such party has appeared in the action, at
229 the party or attorney's last known mail or e-mail address, and shall ~~make a notice~~ note the

230 transmission in the court records.; ~~but such a~~ Notice under this rule shall not limit the
231 time for taking an appeal or other proceeding on such order, decision, or judgment.

232 **Advisory Committee Comment—2012 Amendment**

233 Rule 77.04 is amended to permit any notice required by the rule to be
234 sent by electronic means in all cases. Although this will necessarily occur in
235 cases using mandatory e-filing and e-service, the rule permits court
236 administrators to use e-mail or electronic noticing in any other case where it is
237 feasible.

238 Notice is required to be provided to the last known address of the party or
239 attorney. The burden is squarely on the party or attorney to advise the court of
240 any change in address. This rule should be read in conjunction with Rule 13.02
241 of the General Rules of Practice which permits the court administrator to
242 discontinue providing postal notice where that last known address is known to
243 be obsolete, typically by the return of prior mailings by the postal service.

AMENDMENTS TO MINNESOTA GENERAL RULES OF PRACTICE

[Note: Except where indicated otherwise, new material is indicated by underscoring, except committee comments, which are all new; deleted material is indicated by strikethrough]

RULE 6. FORM OF PLEADINGS

Rule 6.01. Format

All pleadings or other ~~papers~~documents required to be filed 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. Any pleading or document either permitted or required to be served or filed electronically must conform to the format requirements contained in the court rules or orders relating to electronic filing.

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 7. PROOF OF SERVICE

When service has been made before filing, proofs of service shall be affixed to all ~~papers~~documents so that the identity of the instrument is not obscured. If a document is filed before service, proof of service shall be filed within 10 days after service is made. When service is made electronically when authorized by and in accordance with Rule 14 of these rules, the record of service on the e-service system shall constitute proof of service.

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.

281 **RULE 11. SUBMISSION OF CONFIDENTIAL INFORMATION**

282 **Rule 11.01. Definitions**

283 The following definitions apply for the purposes of this rule:

284 (a) “Restricted identifiers” shall mean the social security number, employer
285 identification number, and financial account numbers of a party or other person.

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

290 **Rule 11.02. Restricted Identifiers**

291 **(a) Pleadings and Other Documents Submitted by a Party.** No party shall
292 submit restricted identifiers on any pleading or other document that is to be filed with the
293 court except:

294 (~~i~~1) on a separate form entitled Confidential Information Form (see Form
295 11.1 as published by the state court administrator) filed with the pleading
296 or other document; or

297 (~~ii~~2) on Sealed Financial Source Documents under Rule 11.03.

298 The parties are solely responsible for ensuring that restricted identifiers do not
299 otherwise appear on the pleading or other document filed with the court. The court
300 administrator will not review each pleading or document filed by a party for compliance
301 with this rule. The Confidential Information Form shall not be accessible to the public.

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

308 **Rule 11.03. Sealing Financial Source Documents**

309 Financial source documents shall be submitted to the court under a cover sheet
310 designated “Sealed Financial Source Documents” and substantially in the form set forth
311 as Form 11.2 as published by the state court administrator. Financial source documents
312 submitted with the required cover sheet are not accessible to the public except to the
313 extent that they are admitted into evidence in a testimonial hearing or trial or as provided
314 in Rule 11.05 of these rules. The cover sheet or copy of it shall be accessible to the
315 public. Financial source documents that are not submitted with the required cover sheet

and that contain restricted identifiers are accessible to the public, but the court may, upon motion or on its own initiative, order that any such financial source document be sealed.

Rule 11.04. Failure to Comply

If a party fails to comply with the requirements of this rule in regard to another individual'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.

Rule 11.05. Procedure for Requesting Access to Sealed Financial Source Documents

(a) Motion. Any person may file a motion, supported by affidavit showing good cause, for access to Sealed Financial Source Documents or portions of the documents. Written notice of the motion shall be 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 Sealed 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.

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

A party may submit a document for filing as "confidential" or "under seal" only if one of these circumstances exist:

(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 may be made as "confidential" or "under seal."

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.

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 ~~papers~~documents 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 ~~papers~~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 ~~mailings~~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 ~~mailings~~ 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 transmitted to all parties.

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.

[NOTE: BECAUSE RULE 14 IS ENTIRELY NEW, UNDERLINING TO SHOW NEW LANGUAGE WILL BE OMITTED THROUGHOUT THIS RULE]

RULE 14. E-FILING AND E-SERVICE

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

(a) Definitions. The following terms have the following meanings:

(1) “Designated Provider” means the electronic filing service provider designated by the state court administrator.

(2) “E-Filing System” means the Designated Provider’s Internet-accessible electronic filing and service system.

(3) “Pilot Project Case Types” means cases in the Fourth Judicial District and Second Judicial District, of the Selected Civil Case Types and Family Case Types as defined in this rule.

(4) “Selected Civil Case Types” means all general civil cases, including examiner of title cases (in the Fourth Judicial District, in addition to Torrens cases this includes 5-week redemptions) except Conciliation Court and Probate/Mental Health case types, and Family Case Types as defined in this rule.

(5) “Family Case Types” means Annulments, Custody, Dissolutions with Children, Dissolutions without Children, Domestic Abuse, Family Other, Legal Separation, Paternity, Separate Maintenance, Summary Dissolution, Support, and Transfers of Legal Custody.

(b) Cases Subject to Mandatory E-Filing and E-Service. Effective September 1, 2012, attorneys representing parties in any case of the Pilot Project Case Types in the Second and Fourth Judicial Districts, and government agencies appearing in such cases, must register promptly upon filing of any document by any party with the Designated Provider and file documents electronically with the court in Pilot Project Case Types. Registered attorneys and government agencies must also electronically serve all documents required or permitted to be served on other registered attorneys and government agencies in that case, provided that the attorney to be served has designated an e-mail address for receiving electronic service in the E-Filing System after the District Court has accepted the initial filing in the case. Electronic filing and electronic service shall be accomplished through the E-Filing System.

441
442
443 **(c) Prohibited E-Filing.** The following case types may not be filed
444 electronically in proceedings related to:

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

446 (2) Parental notification bypass proceedings under Minn. Stat. § 144.343.

447 **(d) Request for Exception to Mandatory E-File and E-Service Requirement.**
448 An attorney or government agency required to file and serve electronically under this
449 rule, may request to be excused from mandatory e-filing in a particular case by motion to
450 the Chief Judge or his or her designee. An opt-out request may be granted for good cause
451 shown. If an opt-out request is granted, the court shall scan all document filings into the
452 court's computer system and may charge the filing party an appropriate fee.

453 **(e) Voluntary E-File and E-Serve.** During the pilot project, attorneys, and
454 parties designated by the Fourth Judicial District and Second Judicial District may, upon
455 registering with the Designated Provider, electronically file documents with the court in
456 civil cases designated by the respective judicial district. For other districts, attorneys and
457 parties designated by the State Court Administrator may, upon registering with the
458 Designated Provider, electronically file documents with the court in the locations and
459 civil cases designated by the State Court Administrator. In any designated case in which
460 the designated and registered attorneys or parties have electronically filed a document
461 with the District Court, any other attorney or law firm representing a party in the case and
462 any party designated by the District Court (Second and Fourth Judicial Districts), or the
463 State Court Administrator (all other districts), may also electronically file documents in
464 the case after registering with the Designated Provider. Registered attorneys and parties
465 may also electronically serve documents on other registered attorneys and parties in such
466 cases provided that the attorney or party to be served has designated an e-mail address for
467 receiving electronic service in the E-Filing System after the District Court has accepted
468 the initial filing in the case.

469 **(f) Relief from Operation of this Rule.**

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

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

482
483 **Rule 14.02. Registration Process and Duty to Designate E-Mail Address for Service**

484 An attorney or party registers with the Designated Provider for each case by
485 entering into a subscriber agreement with the Designated Provider and obtaining a E-
486 Filing System user identification and password provided by the Designated Provider.
487 The registered attorney or party must also designate in the E-Filing System an e-mail
488 address for receiving electronic service in the case. Once an initial filing has been
489 accepted in a case, all other registered attorneys and parties shall, upon filing their initial
490 document in a case, designate in the E-Filing System an e-mail address for receiving
491 electronic service in the case. Registered attorneys and parties shall maintain a
492 designated e-mail address for receiving electronic service until all applicable appeal
493 periods have expired for the case.

494 **Rule 14.03. Document Format**

495 **(a) Document Types.** Documents filed electronically shall be in one of the
496 following electronic filed formats: Word, WordPerfect, PDF or .tif (“Tiff”).

497 **(b) Format.** Documents filed electronically shall comply with the following
498 format requirements:

- 499 (1) 8½ x 11” size with a portrait orientation.
- 500 (2) No Optical Character Recognition (OCR) data shall be contained in or
501 associated with the document.
- 502 (3) At least 200 dot-per-inch (“DPI”) resolution.
- 503 (4) No unintelligible images (e.g., no all-black images).
- 504 (5) Documents may not be secured, password-protected, or have other
505 features limiting access.
- 506 (6) Black and white images (no color images will be retained). Color
507 documents submitted via the E-Filing System are transformed into black and white
508 images.
- 509 (7) No document shall contain any external references (e.g., hyperlinks,
510 URLs, shortcuts).
- 511 (8) Only readable words, viewable pictures or images, and valid, non-
512 corrupted tables shall be included.
- 513 (9) Documents shall not be corrupted (e.g., a corrupt file having 0 bytes of
514 data).

515 (10) Documents may contain only standard fonts. No CID or Character
516 Identifier fonts are permitted.

517 (11) Only standard CCIT image compression is permitted.

518 (12) Documents must comprise the complete image or file. A file that
519 experiences an upload issue or time-out on file transfer from a submitting party
520 usually appears as an incomplete image or file when opened.

521 **(c) Document Size.**

522 (1) No single electronic document should be greater than 5 MB; and

523 (2) No single envelope or filing should be greater than 25 MB.

524 Larger documents may be filed in several parts or in multiple envelopes.

525 **(d) Non-conforming Documents.** With leave of court, a color document or
526 document containing color may be filed electronically with manual handling or in
527 paper form to be retained by the court in a color format. A motion to file a color
528 document or document containing color to be retained by the court in a color format
529 must be filed and served electronically.

530
531 **Rule 14.04 Signatures**

532 **(a) Judge and Administrator Signatures.** All electronically filed and served
533 documents that require a judge's, judicial officer's, or court administrator's signature
534 shall either capture the signature electronically under a process approved by the state
535 court administrator pursuant to judicial branch policy or begin with an actual signature on
536 paper that is then scanned into an electronic document format such that the final
537 electronic document has the judge's, judicial officer's, or court administrator's signature
538 depicted thereon. The final electronic document shall constitute an original.

539 **(b) Attorney or Declarant Signature.** A document electronically filed or
540 served using the E-Filing System shall be deemed to have been signed by the attorney or
541 declarant and shall bear a facsimile or typographical signature of such person, along with
542 the typed name, address, telephone number, and attorney registration number of a signing
543 attorney. Typographical signatures of an attorney or declarant shall be treated as a
544 personal signature and shall be in the form: */s/ Pat L. Smith.*

545 **(c) Notary Signature, Stamp.** A document electronically filed or served using
546 the E-Filing System that requires a signature of a notary public shall be deemed signed by
547 the notary public if, before filing or service, the notary public has signed a printed or
548 electronic form of the document and the electronically filed or served document bears a
549 facsimile or typographical notary signature and stamp.

550 **(d) Perjury Penalty Acknowledgement.** A document electronically filed or
551 served using the E-Filing System that requires a signature under penalty of perjury is
552 deemed signed by the declarant if, before filing or service, the declarant has signed a

553 printed form of the document and the electronically filed or served document bears the
554 declarant's facsimile or typographical signature.

555 **(e) Certification; Retention.** By electronically filing or submitting a document
556 using the E-Filing System, the registered attorney or party filing or serving is certifying
557 compliance with the signature requirements of these rules, and the signatures on the
558 document shall have the same legal effect as the signatures on the original document.

559 **Rule 14.05 Proof of Service**

560 The records of the E-Filing System indicating transmittal to a registered recipient
561 who has designated an e-mail address for service of process in the case shall be sufficient
562 proof of service on the recipient for all purposes.

563 **Rule 14.06 Sealed and Confidential Documents**

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

569 A document marked as "confidential" (which may include "Confidential 1" and
570 "Confidential 2", etc., as available and defined by the E-Filing System document security
571 classifications) will not be accessible to the public, but will be accessible to court staff
572 and, where applicable, to certain governmental entities as authorized by law, court rule,
573 or court order. A document marked as "sealed" will not be accessible to the public but
574 will be accessible to court staff with only the highest security level clearance.

575 Upon review, the court may modify the designation of any document incorrectly
576 designated as sealed or confidential and shall provide prompt notice of any such change
577 to the filing party. A filing party must seek advance approval from the court to submit a
578 document designated as sealed or confidential if that document is not already inaccessible
579 to the public under the Rules of Public Access to Records of the Judicial Branch or other
580 applicable law, court rules, or court order.

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

585 **Rule 14.07 Records: Official; Appeal; Certified Copies**

586 Documents electronically filed are official court records for all purposes.
587 Certified copies shall be issued in the conventional manner.

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

640 confidential and non-confidential information, it may be appropriate to file
641 redacted “public” versions of confidential or sealed documents.

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

648 The security designations “confidential” and “sealed” reflect the security
649 classifications available in the courts case management system. In addition to
650 court staff access, some confidential documents (e.g., in Domestic Violence,
651 Juvenile Delinquency, and Parent/Child relationship cases) may be accessible
652 to certain government entities who have demonstrated a need for access and
653 have signed appropriate nondisclosure agreements. See, e.g., Rule 8, subd.
654 4(b), of the Rules of Public Access to Records of the Judicial Branch
655 (authorizing access by county attorneys and public defenders, among others).

656 Pursuant to Minn. R. Civ. P. 5.06, a document that is electronically filed
657 is deemed to have been filed by the court administrator on the date and time of
658 its transmittal to the District Court through the E-Filing System, and the filing
659 shall be stamped with this date and time subject to acceptance by the court
660 administrator. If the filing is not subsequently accepted by the court
661 administrator for reasons authorized by Minn. R. Civ. P. 5.04, the date stamp
662 shall be removed and the document electronically returned to the person who
663 filed it.
664

AMENDMENTS TO RULES OF PUBLIC ACCESS TO THE RECORDS OF THE JUDICIAL BRANCH

[Note: new material is indicated by underscoring, except committee comments, which are all new; deleted material is indicated by strikethrough]

RULE 8. INSPECTION, COPYING, BULK DISTRIBUTION AND REMOTE ACCESS

Subd. 2. Remote Access to Electronic Records

* * *

(e) Exceptions

(1) *Particular Case.* After notice to the parties and an opportunity to be heard, the presiding judge may by order direct the court administrator to provide remote electronic access to records of a particular case that would not otherwise be remotely accessible under parts (a), (b), or (c) of this rule.

(2) *Appellate Briefs.* The State Law Library may, to the extent that it has the resources and technical capacity to do so, provide remote access to appellate court briefs provided that the following are redacted: appendices to briefs, data listed in Rule 8, subd. 2(b) of these rules, and other records that are not accessible to the public.

(3) *E-mail and Facsimile Transmission.* Any record custodian may, in the custodian's discretion and subject to applicable fees, provide public access by e-mail or facsimile transmission to publicly accessible records that would not otherwise be remotely accessible under parts (a), (b) or (c) of this rule.

(4) *E-filed Records.* Documents electronically filed or served using the E-Filing System designated by the state court administrator shall be remotely accessible to the person filing or serving them and the recipient of them, on the E-Filing System for the period designated by the court, and on the court's case management system to the extent technically feasible.

Advisory Committee Comment—2012 Amendment

The 2012 addition of Rule 8, subd. 2(e)(4), is intended to recognize that documents electronically filed with the courts or electronically served using the court's internet-accessible electronic filing and electronic service system can be made remotely accessible to the parties filing or serving the same and to the recipients of such service. This continues remote access that was established through the Judicial District E-Filing Pilot Project Provisions, adopted by the court on October 21, 2010, and amended on March 10, 2011. Those provisions are being replaced by permanent rules.