STATE OF MINNESOTA

IN SUPREME COURT

CX-89-1863

In re: Supreme Court Advisory Committee
on General Rules of Practice

Recommendations of Minnesota Supreme Court Advisory Committee on General Rules of Practice

Final Report

October 23, 1992

Hon. A. M. Keith, Chair

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ADVISORY COMMITTEE ON GENERAL RULES OF PRACTICE

SUMMARY OF COMMITTEE RECOMMENDATIONS

Background of the Committee

The Advisory Committee on General Rules of Practice ("Committee") was appointed by the Minnesota Supreme Court on July 17, 1992. The Committee is chaired by Chief Justice A. M. Keith. The Committee has met twice and has reviewed the Minnesota General Rules of Practice for the District Courts ("General Rules") adopted by order dated September 5, 1991. The Committee has also reviewed correspondence and comments from members of the Bench and Bar that have been submitted following adoption of the General Rules.

The committee has viewed its task minimally--to recommend change only to what needs to be changed and to leave as much as possible alone. The committee has considered, however, every comment or suggestion received from any member of the public, the practicing bar, and the bench. Additionally, the committee has sought out and obtained comments from these groups on the recommendations it received.

Comments received from members of the Bench and Bar have strongly favored the efforts to make the rules of practice uniform throughout the state. The General Rules of Practice have received significant praise from lawyers and judges and seem to have been implemented with little difficulty.

The Advisory Committee is broadly composed of practicing lawyers, trial and appellate court judges, and court administrators. The Advisory Committee scheduled meetings in August and October 1992. Attendance at meetings always included the vast majority of committee members. This Report reflects a strong consensus of the committee membership.

The Conference of Chief Judges has also considered many of the issues taken up by the committee, and issued its Resolution Relating to Technical Changes to General Rules of Practice, dated July 21, 1992. A copy of that resolution is attached as Exhibit A. The committee accepts each of the recommendations of the Conference of Chief Judges, and has made specific proposals for implementing those recommendations.

Specific Recommendations

The Committee's recommendations are set forth in the following Final Report. These recommendations include primarily "housekeeping" amendments to clarify language in the rules adopted by this Court effective on January 1, 1992. These changes include the following:

1. Clarifying Rule 115 specifically to exclude post-trial motions from the timing requirements of the rule. Rule 115 is also amended to restore reply briefs to an accepted part of motion practice on all motions.
2. Amending Rule 125 to allow for an automatic 30-day stay of entry of judgment only for judgments following trial. In other situations, where further motions are not contemplated nor usually made, the stay is not automatically applicable.
3. Relocating Rule 142 on Trustees and Accounting to become Rule 417, part of the probate court rules.
4. Make technical corrections to Rule 145 governing minor settlements.
5. Amending Rule 304 to provide for a separate informational statement form for pro se parties.

The Committee did not consider any potential changes to the rules governing conciliation court. These rules are being reviewed by the Minnesota Supreme Court Advisory Committee on Conciliation Court Rules, chaired by Hon. Terri J. Stoneburner.

Similarly, the Committee did not consider the Petition of the Minnesota State Bar Association on Complex Litigation, pending before this Court. *See* Petition, No. C6-84-2134, filed August 25, 1992. This petition proposes changes to the General Rules of Practice, but those proposals do not conflict with any existing rules and the Committee does not take any position on them. If the Court

deems them appropriate for complex case management, they are appropriate for inclusion in the General Rules of Practice and properly numbered.

The Committee did consider various suggestions that the Civil Trialbook, adopted as a separate part of the General Rules of Practice by the Court when the General Rules were adopted, be relocated and renumbered as part of the General Rules themselves. Although these suggestions are well taken, the committee thought it wisest not to make these extensive changes at this time. The Court should be aware of these recommendations, however, and the likelihood that changes may be forthcoming in the future.

Format of Report

These recommendations are set forth in numerical order, to correspond to the existing General Rules. The recommendations include a brief introductory comment to explain the genesis of the proposed rule change.

The Advisory Committee has also included comments on the specific rules where appropriate. The Advisory Committee comments are intended primarily to assist the Court in understanding the reasons for the recommended language of the proposed amendments and the intended operation of the amended rules. They may also, should the amendments be adopted by the Court, be helpful to the bench and bar after implementation.

Public Information and Hearing

The Committee considered all communications received from the public, Bench, and Bar following adoption of the General Rules in September 1991. Because these comments were largely favorable and because the suggestions for further amendments were generally technical in nature, the Advisory Committee determined that no public hearing need be held by it on these recommendations.

Effective Date

The Committee has given consideration to an appropriate effective date for the proposed rule changes. Given the fact that the vast majority of the rule changes proposed will not make any substantial change in practice in the courts, the Task Force believes they should be implemented effective January 1, 1993.

The rules amendments should be made applicable to all actions pending on the effective date and to those filed thereafter.

Ongoing Review of Developments

The Advisory Committee believes that ongoing review of comments regarding the General Rules is important to the continued vitality of the rules. The Advisory Committee would respectfully recommend that the Court's order on these amendments encourage any further comments or suggestions be directed to the Advisory Committee.

The Chair, Staff Attorney, and Reporter of the Advisory Committee (as well as the entire membership) will be available to the Court to review these recommendations and to answer any questions.

Dated: October 23, 1992.

Respectfully submitted,

MINNESOTA SUPREME COURT ADVISORY COMMITTEE ON GENERAL RULES OF PRACTICE

PROPOSAL 1: Relocate and renumber General Rules of Practice 102 and 103.

Introduction.

The Advisory Committee believes Minn. Gen. R. Prac. 102 and 103 should be relocated to the series of rules applicable in all trial court proceedings, and suggests they become Minn. R. Gen. Prac. 6 & 7. This Court already requires all papers to be filed on 8½ x 11 inch paper. *See* Order Mandating 8½ 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). Paper size is similarly governed by court rule for papers filed in the appellate courts. *See* Minn. R. Civ. App. P. 132.01, subd. 1. By relocation of this rule, separate publication of the Court's 1982 Order should no longer be necessary. Similarly, the requirement of attaching proof of service is uniform in all trial court proceedings, and should be part of the rules applicable in all trial court proceedings.

Specific Recommendations.

1. Relocate and renumber Minn. Gen. R. Prac. 102 to become Rule 6.

Rule 6.01 Form of Pleadings
(relocated from Rule 102)

Rule ~~102~~6 Form of Pleadings

Rule ~~102.01~~6.01 Format. All pleadings or other papers 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. The original papers produced and filed by facsimile transmission as allowed by the Rules of Civil Procedure and in accordance with any supplemental Supreme Court rules or orders shall also be filed.

Rule ~~102.02~~6.02 Paper Size. All papers served or filed by any party shall be on standard size 8½ X 11 inch paper.

Rule ~~102.03~~6.03 Backings Not Allowed. No pleading, motion, order, or other paper offered to the court administrator for 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.

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

~~Task Force Comment–1991 Adoption~~

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 8½ 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, subd. 1. This rule simply reiterates the requirement for the trial courts.

2. Relocate and renumber Minn. Gen. R. Prac. 103 to become Rule 7.

Rule 7 Form of Pleadings

(relocated from Rule 103)

Rule ~~1037.01~~ Proof of Service

When service has been made before filing, proofs of service shall be affixed to all papers so that the identity of the instrument is not obscured. If a document is filed before service, proof of service shall be filed promptly after service is made.

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

~~Task Force Comment–1991 Adoption~~

Advisory Committee Comment–1992 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.

PROPOSAL 2: **Amend Rule 104 to provide that a Certificate of Representation and Parties is not required in all cases.**

Introduction.

The Advisory Committee believes this rule should be amended to make it clear that a certificate of representation and parties is only required at the time of filing in situations where the court is going to be scheduling further proceedings or mailing notice of judge assignment to the parties. Minn. Gen. R. Prac. 141.02 establishes the filing of a notice of appeal from the commissioners' award in condemnation proceedings as the event triggering scheduling (rather than the usual pre-award proceedings). Minn. Gen. R. Prac 144.01 similarly provides that it is filing of papers in a wrongful death action, and not the mere filing for appointment of a trustee to pursue such an action, that triggers scheduling requirements in these proceedings.

This recommendation was also made by the Conference of Chief Judges (*See* Exhibit A).

Specific Recommendation.

1. Amend Minn. Gen. R. Prac. 104 as follows:

Rule 104 Certificate of Representation and Parties

Except as otherwise provided in these rules for specific types of cases, ~~1A~~ party filing a civil case shall, at the time of filing, notify the court administrator in writing of the name, address, and telephone number of all counsel and unrepresented parties, if known (see form 104 appended to these rules). If that information is not then known to the filing party, it shall be provided to the court administrator in writing by the filing party within seven days of learning it. Any party impleading additional parties shall provide the same information to the court administrator. The court administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers, if represented by counsel, of the date of filing the action and the file number assigned.

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

~~**Task Force Comment--1991 Adoption**~~

Advisory Committee Comment--1992 Amendments

This rule is derived from 7th Dist. R. 7 (eff. Jan. 1, 1990).

The final sentence is derived from 2d Dist. R. 2(b).

This rule formalizes the requirement to provide information about all parties when an action is filed. Its need derives from the commencement of actions by service and the fact that many pleadings are routinely not filed. The certificate of representation and parties serves a purpose of allowing the court to give notice of assignment of a judge to

the case (in those districts making that assignment prior to trial), thereby triggering for all parties the 10-day period to remove an assigned judge under Minn. R. Civ. P. 63.

This requirement now exists in the Fourth and Seventh districts, and seems to be the type of requirement the Task Force seeks to make uniform statewide. The required information may be submitted in typed form or on forms available from the court administrator. A sample form is included in the Appendix of Forms as Form 104.

The first clause of the rule is intended to make it clear that where other rules provide specific requirements relating to initiation of an action for scheduling purposes, those rules govern. For example, Minn. Gen. R. Prac. 144.01, as amended in 1992, states that the Certificate of Representation required under this rule is not required in wrongful death actions following the mere filing of a petition for appointment of the trustee, but is required after the action itself is commenced by service of the summons and papers are filed with the court. Rule 141.02, as amended in 1992, similarly provides that filing of a notice of appeal from a commissioner's award triggers the assignment process requirements in condemnation proceedings.

PROPOSAL 3: Amend General Rule of Practice 111 to clarify its scope.

Introduction.

The Advisory Committee believes this rule should be amended to enumerate election contests as a type of case which is not scheduled as other civil matters and simplifying the reference to family court rules. Because of a companion change to Rule 301, enumeration of the various family matters is not necessary nor useful. The former change was recommended by the Conference of Chief Judges (*See* Exhibit A).

Specific Recommendations.

1. Amend Minn. Gen. R. Prac. 111 as follows:

Rule 111 Scheduling of Cases

Rule 111.01 Scope. The purpose of this rule is to provide a uniform system for scheduling matters for disposition and trial in civil cases, excluding only the following:

(a) Conciliation court actions and conciliation court appeals where no jury trial is demanded;

(b) Family court matters ~~arising under Minn. Stat. ch. 257, 260, 518, 518A, 518B, and 518C~~governed by Minn. Gen. R. Prac. 301 through 312;

(c) Public assistance appeals under Minn. Stat. § 256.045, subd. 7;

(d) Unlawful detainer actions pursuant to Minn. Stat. §§ 566.01, et seq.;

(e) Implied consent proceedings pursuant to Minn. Stat. § 169.123;

(f) Juvenile court proceedings;

(g) Civil commitment proceedings subject to the Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment Act of 1982;

(h) Probate court proceedings;

(i) Periodic trust accountings pursuant to Minn. Gen. R. Prac. ~~142~~17;

(j) Proceedings under Minn. Stat. § 609.748 relating to harassment restraining orders; and

(k) Proceedings for registration of land titles pursuant to Minn. Stat. ch. 508~~.~~;

(l) Election contests pursuant to Minn. Stat. ch. 209.

The court may invoke the procedures of this rule in any action where not otherwise required.

* * *

~~**Task Force Comment--1991 Adoption**~~

Advisory Committee Comment--1992 Amendments

This rule is new. This rule is intended to establish a uniform, mandatory practice of dealing with scheduling in every case by some court action. The rule does not establish, however, a single means of complying with the scheduling requirement nor does it set

any rigid or uniform schedules. In certain instances, other rules establish the event giving rise to the requirement that the scheduling procedures be followed. *See, e.g.*, Rule 141. (condemnation scheduling triggered by appeal of commissioner's award); 144.01 (wrongful death scheduling triggered by filing paper in wrongful death action, not proceedings for appointment of trustee).

Although the rule allows parties to submit scheduling information separately, this information may also be submitted jointly and required to be submitted jointly. In many cases, the efficient handling of the case may be fostered by the parties meeting to discuss scheduling issues and submitting a joint statement.

The rule contemplates establishment of a separate deadline for completion of an independent medical examination because the Task Force believes that it is frequently desirable to allow such an examination to take place after the conclusion of other discovery. The rule does not create any specific schedule for independent medical examinations, but allows, and encourages, the court to consider this question separately. The timing of these examinations is best not handled by rigid schedule, but rather, by the exercise of judgment on the part of the trial judge based upon the views of the lawyers, any medical information bearing on timing and the status of other discovery, as well as the specific factors set forth in Minn. R. Civ. P. 35. The Task Force considered a new rule expressly to exempt the use of requests for admissions pursuant to Minn. R. Civ. P. 36 from discovery completion deadlines in the ordinary case. The Task Force determined that a separate rule exempting requests for admissions from discovery deadlines in all cases was not necessary, but encourages use of extended deadlines for requests for admissions in most cases. The primary function served by these requests is not discovery, but the narrowing of issues, and their use is often most valuable at the close of discovery. *See* R. Haydock & D. Herr, *Discovery Practice* § 7.2 (2d ed. 1988). Because requests for admissions serve an important purpose of narrowing the issues for trial and resolving evidentiary issues relating to trial, it is often desirable to allow use of these requests after the close of other discovery.

2. Amend Rule 301 as follows:

Rule 301 Applicability of Rules

* * *

~~**Task Force Comment--1991 Adoption**~~

Advisory Committee Comment--1992 Amendments

These rules are derived primarily from the Rules of Family Court Procedure. The advisory committee comments from the Rules of Family Court Procedure are included except where inconsistent with new provisions or where applicable rules are not retained.

These rules apply to the following specific types of proceedings that are generally treated as family court actions:

1. Marriage dissolution, legal separation, and annulment proceedings (Minn. Stat. ch. 518);
2. Child custody enforcement proceedings (Minn. Stat. ch. 518A);
3. Domestic abuse proceedings (Minn. Stat. ch. 518B);
4. Support enforcement proceedings (Minn. Stat. ch. 518C--R.U.R.E.S.A.);
5. Contempt actions in Family Court (Minn. Stat. ch. 588);
6. Parentage determination proceedings (Minn. Stat. §§ 257.51-.74);
7. Actions for reimbursement of public assistance (Minn. Stat. § 256.87);
8. Withholding of refunds from support debtors (Minn. Stat. § 289A.50, subd. 5);

9. Proceedings to compel payment of child support (Minn. Stat. § 393.07, subd. 9); and
10. Proceedings for support, maintenance or county reimbursement judgments (Minn. Stat. § 548.091).

Other matters may be heard and treated as family court matters.

PROPOSAL 4: **Amend General Rule of Practice 115 to permit reply briefs and to make it clear that post-trial motions are not governed by the time limits of the rule.**

Introduction.

The Advisory Committee believes Rule 115 should be amended to allow for reply briefs and to exempt post-trial motions from the timing requirements of the rule. The recommendation was also made by the Conference of Chief Judges (*See* Exhibit A).

The Task Force on Uniform Local Rules proposed a motion practice system that did not include reply briefs. In practice, however, parties have continued to use reply briefs. Courts have found reply briefs occasionally valuable and occasionally a waste of time and effort. On balance, the Committee recommends that reply briefs ought to be permitted, limited only to new matters raised in the papers filed in response to a motion and subject to the same overall page limits.

Specific Recommendation.

1. Amend Rule 115 as follows:

Rule 115 Motion Practice

Rule 115.01 Scope and Application.

* * *

(c) Post-Trial Motions. The timing provisions of sections 115.03 and 115.04 of this rule do not apply to post-trial motions

* * *

Rule 115.02 Obtaining Hearing Date; Notice to Parties. A hearing date and time shall be obtained from the court administrator or a designated motion calendar deputy. A party obtaining a date and time for a hearing on a motion or for any other calendar setting, shall promptly give notice advising all other parties who have appeared in the action so that cross motions may, insofar as possible, be heard on a single hearing date.

Rule 115.03 Dispositive Motions.

* * *

(c) Reply Memoranda. The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a

motion, by serving a copy on opposing counsel and filing the original with the court administrator at least 3 days before the hearing.

(ed) **Additional Requirement for Summary Judgment Motions.** For summary judgement motions, the memorandum of law shall include:

* * *

Rule 115.04 Non-dispositive Motions.

* * *

(c) Reply Memoranda. The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving a copy on opposing counsel and filing the original with the court administrator at least 3 days before the hearing.

Rule 115.05 Page Limits. No memorandum of law submitted in connection with either a dispositive or nondispositive motion shall exceed 35 pages, exclusive of the recital of facts required by Minn. Gen. R. Prac. 115.03(c)(3), except with permission of the court. For motions involving discovery requests, the moving party's memorandum shall set forth only the particular discovery requests and the response or objection thereto which are the subject of the motion, and a concise recitation of why the response or objection is improper. If a reply memorandum of law is filed, the cumulative total of the original memorandum and the reply memorandum shall not exceed 35 pages, except with permission of the court.

* * *

Cross Reference: Minn. R. Civ. P. 7, 56.

~~**Task Force Comment--1991 Adoption**~~

Advisory Committee Comment--1992 Amendments

This rule is derived primarily from Rule 15 of the Local Rules of the Seventh District. Provisions are also included from Rule 8 of the Local Rules of the Second District (2d Dist. R. 8(h)(1) & 8(j)(1)).

This rule is intended to create uniform motion practice in all districts of the state. The existing practices diverge in many ways. The inconsistent requirements for having a motion heard impose significant burdens on litigants and their counsel. The Task Force is confident that this new rule will make civil practice more efficient and fairer, consistent with the goals of the rules of civil procedure set forth in Minn. R. Civ. P. 1.

The rule applies to all motions except the timing provisions do not apply to post-trial motions. These motions are excepted because they are governed by other, stringent timing requirements. *See* Minn. R. Civ. P. 59.03 (motions for a new trial), 52.02 (amendment of findings), 50.02(c) (time for j.n.o.v motion same as for new trial motion). Other post trial motions excluded from this rule include those relating to entry of judgment, stays, taxation of costs, and approval of supersedeas bonds. *See* Minn. R. Civ. App. P. 108.01, subd. 1. These matters are routinely and necessarily heard on shorter notice than that required by the rule.

The time limits set forth in this rule were arrived at after extensive discussion. The Task Force attempted to balance the needs of the courts to obtain information on motions sufficiently in advance of the hearing to permit judicial preparation and the needs of counsel and litigants to have prompt hearings after the submission of motions. The time limits for dispositive motions are admittedly longer than the 10-day requirement set forth in Minn. R. Civ. P. 56.03. The Task Force is of the view that these requirements are not necessarily inconsistent because the rules serve two different purposes. The civil

procedure rule establishes a minimum notice period to the adversary, while this provision in the general rules of practice sets forth a standard to facilitate the court's consideration of the motions. The time requirements of this rule may be readily modified by the court, while the minimum notice requirements of Minn. R. Civ. P. 56.03 is mandatory unless waived by the parties themselves. *See McAllister v. Independent School District No. 306*, 276 Minn. 549, 149 N.W.2d 81 (1967). The time limits have been slightly modified from the Task Force's original report to reflect the motion practice deadlines now established and followed in the federal court by Minnesota. The local rules of the United States District Court for the District of Minnesota were recently amended, effective Feb. 1, 1991. *See* Rule LR7.1 (b)(1) (D. Minn.) (moving papers for dispositive motions now due 28 days before hearing). The Task Force believes it is desirable to remove minor differences between state and federal court practice where no overriding purpose exists for the differences.

The amendment to this rule in 1992 added an express provision for reply briefs. Reply briefs are now allowed for all motions, with the total page limits remaining unchanged. This change is appropriate because of the number of situations where truly new factual or legal matters are raised in response to a motion. In many cases, however, a reply brief will be unnecessary or, where no new matters are raised, inappropriate. The requirement that reply briefs be served and filed three days before the hearing contemplates actual delivery three days before the hearing is scheduled. If service or filing will be accomplished by mail, the deadline is three days earlier by operation of Minn. R. Civ. P. 5.02 & 6.05 and Minn. Gen. R. Prac. 115.01(b).

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[Retain balance of comment]

PROPOSAL 5: Amend comment to Rule 117 to clarify purpose of rule.

Introduction.

The Advisory Committee believes the comment to Rule 117 should be revised to make it clear that the rule's reference to Rule 115 on motions relates only to the obtaining of a hearing date and time. Rule 115.02 is also amended by Proposal 4 to clarify this intent. The remaining requirements for motions are not made applicable to default hearings by the reference in the rule. Additionally, the rule is not intended to impose additional service requirements on a party who is in default.

Specific Recommendation.

Rule 117 Default Hearings

Rule 117.01 Scheduling Hearings. Default hearings are scheduled as motions, and a date and time for default hearings shall be obtained from the court administrator or a designated motion assignment deputy. None of the provisions of Rule 115 apply to default hearings.

Rule 117.02 Proof of Claim. A party entitled to judgment by default shall move the court for judgment in that party's favor, setting forth by affidavit the facts which entitle that party to relief. Either the party or the party's lawyer may make the affidavit, which may include reliable hearsay. This affidavit is not required in cases governed by Minn. R. Civ. P. 55.01(a).

Cross Reference: Minn. R. Civ. P. 54.03, 55.01.

~~**Task Force Comment--1991 Adoption**~~

Advisory Committee Comment--1992 Amendments

The procedure for scheduling a hearing on a default is the same as that under Rule 115.02 for scheduling motion hearings. This practice related only to the setting of a date for resolution. The other requirements of Rule 115.02 do not apply to default hearings and no additional service requirements are imposed beyond what is required by the Minnesota Rules of Civil Procedure. This rule has been amended explicitly to exempt defaults from all other requirements for motions contained in Rule 115.

Minn. R. Civ. P. 55.01(a) permits entry of judgment by the administrator in limited situations. In those cases, however, Rule 55.01 requires only an affidavit of the amount due, and not the more extensive affidavit required by Minn. Gen. R. Prac. 117.02.

PROPOSAL 6: **Clarify Rule 125 to limit automatic stay to judgments ordered after a trial is held.**

Introduction.

The Advisory Committee believes this rule should be amended to expressly exclude judgments entered after pretrial motions or in temporary hearings in family matters. The amendment is crafted to make a 30-day automatic stay inapplicable where post-trial motions are not necessary and the purpose of the stay is not served.

This recommendation was also made by the Conference of Chief Judges (*See* Exhibit A).

Specific Recommendation.

1. Amend Minn. Gen. R. Prac. 125 as follows:

Rule 125 Automatic Stay

The court administrator shall stay entry of judgment for thirty days after the court orders ~~judgement~~ judgment following a trial unless the court orders otherwise. Upon expiration of the stay, the court administrator shall promptly enter judgment.

Cross Reference: Minn. R. Civ. P. 58.

~~**Task Force Comment--1991 Adoption**~~

Advisory Committee Comment--1992 Amendments

This rule is derived from 7th Dist. R. 11, and is similar to the local rules in other districts.

This rule reflects a common practice in the trial courts, even in those districts that do not have a specific rule requiring a stay. The Task Force believes it is desirable to make this practice both uniform and explicit. The stay allows parties to file post-trial motions and to perfect an appeal without entry of judgment or formal collection efforts. At the end of the 30-day period, stay is governed by Minn. R. Civ. P. 62.03 and the supersedeas bond requirements of the Minnesota Rules of Civil Appellate Procedure. The stay anticipated by this rule applies only following a trial. Where judgment is ordered pursuant to pretrial motion or by default (*e.g.*, temporary hearings in family law), or in situations governed by other rules, including marriage dissolutions by stipulation (Rule 307(b)) and housing court matters (Rules 609 and 611(b)), the stay is not necessary and not intended by the rule.

The rule only creates a standard, uniform procedure for staying entry of judgment. The court can enter such a stay in any case and can order immediate entry of judgment in any case.

PROPOSAL 7: Update Rule 136 to reflect current statute.

Introduction.

Minn. Gen. R. Prac. 136.01 should be amended to correct an obsolete statutory reference and replace it with the current statutes. Minn. Stat. § 571.61 no longer governs discharge of garnishments or attachments.

Specific Recommendation.

1. Amend Minn. Gen. R. Prac. 136 as follows:

Rule 136 Garnishments and Attachments--Bonds to Release--Entry of Judgment Against Garnishee

Rule 136.01 Bond. Garnishments or attachments shall not be discharged through a personal bond under Minn. Stat. ~~§ 571.61~~ §§ 571.931 & .932 without one day's written notice of the application therefor to the adverse party; but if a surety company's bond is given, notice shall not be required.

Rule 136.02 Requirement of Notice. Judgment against a garnishee shall be entered only upon notice to the garnishee and the defendant, if known to be within the jurisdiction of the court, showing the date and amount of the judgment against the defendant, and the amount for which plaintiff proposes to enter judgment against the garnishee after deducting such fees and allowances as the garnishee is entitled to receive. If the garnishee appears and secures a reduction of the proposed judgment, the court may make an appropriate allowance for fees and expense incident to such appearance.

Cross Reference: Minn. R. Civ. P. 64.

~~**Task Force Comment--1991 Adoption**~~

Advisory Committee Comment--1992 Amendments

This rule is derived from Rule 15 of the Code of Rules for the District Courts. The statutes governing garnishment and attachment have been amended, and the statutory reference in the rule has been corrected to reflecct this change.

PROPOSAL 8: Amend the Committee Comment to General Rule of Practice 141.

Introduction.

The Advisory Committee believes the comment to this rule should be amended to clarify the status of a condemnation case prior to appeal from the award of the commissioners. This change is made in part because of the recommendation of the Conference of Chief Judges (*See* Exhibit A).

Specific Recommendation.

Rule 141 Condemnation

* * *

Rule 141.02 Notice of Appeal. In condemnation cases the notice of appeal from the award of the Commissioners shall be ~~accompanied by a certificate of representation as required by~~ deemed the filing of the first paper in the case for the purposes of Minn. Gen. R. Prac. 104 and 111.

~~**Task Force Comment--1991 Adoption**~~

Advisory Committee Comment--1992 Amendments

This rule is derived from 4th Dist. R. 10 and is intended to supplement statutes providing for the appointment of commissioners and the filing of a notice of appeal. *See* Minn. Stat. §§ 117.075 & .145 (1990).

Rule 141.02 as amended in 1992 establishes that the appeal from the award of the commissioners, not any earlier proceedings relating to appointment of commissioners or a "quick take" of the property, triggers the scheduling requirements of Rules 104 and 111.

PROPOSAL 9: Relocate and renumber General Rule of Practice 142.

Introduction.

The Advisory Committee believes this rule should be relocated to the series of rules applicable in probate court proceedings, and suggests it become Minn. R. Gen. Prac. 417. Following complete unification of the trial courts, this rule is now more logically related to the other probate rules. A statutory reference in the rule is also corrected to reflect an amendment of the statutes.

Specific Recommendations.

1. Renumber and relocate Rule 142 to become Rule 417.

2. Correct statutory reference in rule to reflect amendment of statute.

Rule ~~142~~417 Trustees--Accounting--Petition For Appointment

Rule ~~142~~417.01 Petition for Confirmation of Trustee.

* * *

Rule ~~142~~417.02 Annual Account. Every trustee subject to the jurisdiction of the district court shall file an annual account, duly verified, of the trusteeship with the court administrator within 60 days after the end of each accounting year. Such accounts may be submitted on form ~~142~~417.02 appended to these rules, and shall contain the following:

* * *

Rule ~~142~~417.03 Taxes.

* * *

Rule ~~142~~417.04 Service on Beneficiaries.

* * *

Rule ~~142~~417.05 Court Administrator Records; Notice.

* * *

Rule ~~142~~417.06 Hearing. Hearings upon annual accounts may be ordered upon the request of any interested party. A hearing shall be held on such annual accounts at least once every five years ~~upon notice as set forth in Minn. Stat. § 501.35~~ by mailing, at least 15 days before the date of the hearing, a

copy of the order for hearing to those beneficiaries of the trust who are known to or reasonably ascertainable by the petitioner, to any other person requesting notice, or as ordered by the court. ~~provided, that i~~In trusts of the value of $20,000 or less, the five year hearing requirement may be waived by the court in its discretion. Any hearing on an account may be ex parte if each party in interest then in being shall execute waiver of notice in writing which shall be filed with the court administrator, but no account shall be finally allowed except upon a hearing on the record in open court. Such five year hearings shall be held within 150 days after the end of the accounting period of each fifth annual unallowed account, and the court administrator shall notify each trustee and the Court if the hearing is not held within such 150 day period.

~~**Task Force Comment--1991 Adoption**~~

Advisory Committee Comment--1992 Amendments

This rule was derived from Rule 28 of the Code of Rules for the District Courts. The rule is recodified with the probate court rules because it relates to actions brought in the now-unified district court.

Rule 417.06 is amended to provide a specific method of notice rather than incorporating a specific statutory requirement. The former statute, Minn. Stat. § 501.35 was replaced by § 501B.18. The new statute, however, provides a general mechanism for order of hearing with published notice twenty days before the date of the hearing. This requirement is not necessary for hearings on accounts, as the interested parties will have been identified and known to the trustee at the time a hearing is scheduled. The rule does require notice to any party requesting notice of the hearing, and allows the court to specify another method of giving notice in a particular case. Although that might conceivably include published notice, published notice would be unusual.

3. Amend and renumber Form 142.02 as follows:

FORM ~~142~~417.02 TRUSTEE'S ACCOUNTING

State of Minnesota **District Court**

COUNTY	JUDICIAL DISTRICT CASE NO.

In Re the Trust Created by

_____

TRUSTEE'S ANNUAL ACCOUNT

Annual account pursuant to Rule ~~142~~417.02 of the Minnesota General Rules of Practice for the District Courts for the year beginning _____ and ending _____:

* * *

PROPOSAL 10: **Amend Rule 144 to make it clear that a Certificate of Representation and Parties is not required in all cases.**

Introduction.

The Advisory Committee proposes that Rule 144 be amended to clarify the status of a petition for appointment of a trustee for a wrongful death action. The rule makes it clear that the scheduling provisions of the rules, particularly the requirements for filing a certificate of representation and parties under Rule 104 and scheduling statement under Rule 111.02, do not apply until the wrongful death action itself is commenced. This question has been the subject of some confusion in the trial courts and the amendments were also recommended by the Conference of Chief Judges (*See* Exhibit A).

Specific Recommendation.

1. Amend Minn. Gen. R. Prac. 144 as follows:

Rule 144 Actions for Death by Wrongful Act

Rule 144.01 Application for Appointment of Trustee. Every application for the appointment of a trustee of a claim for death by wrongful act under Minn. Stat. § 573.02, shall be made by the verified petition of the surviving spouse or one of the next of kin of the decedent. The petition shall show the dates and places of the decedent's birth and death; the decedent's address at the time of death; the name, age and address of the decedent's surviving spouse and each next of kin; and the name, age, occupation and address of the proposed trustee. The petition shall also show whether or not any previous application has been made in any court for the appointment of a trustee for such claim, and if a previous application has been made, the facts with reference thereto and its disposition shall also be stated. The written consent of the proposed trustee to act as such shall be endorsed on or filed with such petition. The application for appointment shall not be considered filing of a paper in the case for the purpose of any requirement for filing a certificate of representation or informational statement.

* * *

Cross Reference: Minn. R. Civ. P. 17.

~~Task Force Comment--1991 Adoption~~

Advisory Committee Comment--1992 Amendments

This rule is derived from Rule 2 of the Code of Rules for the District Courts. The Task Force has amended the rule to refer to "next of kin" rather than "heirs."

The Task Force considered the advisability of amending rule 144.05 to require the court to consider and either approve, modify, or disapprove the settlement itself, in addition to the disposition of proceeds as required under the existing rule. Although it appears that good reasons exist to change the rule in this manner, the Minnesota Supreme Court has indicated that the trial court has no jurisdiction to approve or disapprove the settlement amounts agreed upon by the parties. The court can only approve the distribution of those funds among the heirs and next of kin. *See Minneapolis Star & Tribune Co. v. Schumacher*, 392 N.W.2d 197, 200 n.1 (Minn. 1986).

The final sentence of the rule is added in 1992 to make it clear that it is the filing of papers in the actual wrongful death action, and not papers relating to appointment of a trustee to bring the action, that triggers the scheduling requirements of the rules, including the requirement to file a certificate of representation and parties (Rule 104) and an informational statement (Rule 111.02).

PROPOSAL 11: Amend Rule 145 to clarify operation of the rule.

Introduction.

The Advisory Committee recommends minor amendments be made to Minn. R. Gen. Prac. 145. These amendments would correct a phrasing problem in the rule to reflect the fact that qualified assignments as contemplated by the rule are not made by the annuity company, but by one of the parties. This recommendation was also made by the Conference of Chief Judges (*See* Exhibit A). A clarification is also made to the rule governing acceptable financial rating to correct a typographical error.

Specific Recommendation.

1. Amend Rule 145 as follows:

Rule 145 Actions on Behalf of Minors and Incompetent Persons

* * *

Rule 145.02 Contents and Filing of Petition

The petition shall be verified by the parent or guardian, shall be filed before the court makes its order, and shall include the following:

* * *

(e) In cases involving proposed structured settlements, a statement from the parties disclosing the cost of the annuity or structured settlement to the tortfeasor.

* * *

Rule 145.05 Terms of the Order. The court's order shall:

* * *

(e) If part or all of the balance of the proceeds is ordered deposited in one or more financial institutions, the court's order shall direct:

* * *

(5) that a copy of the court's order shall be delivered to said financial institution by the petitioner with the remittance for deposit. The financial institution(s) and the type of investment therein shall be as specified Minn. Stat. § 540.08, as amended. Two or more institutions shall be used if necessary to have full Federal deposit insurance coverage of the proceeds plus future interest.
In every case, minor settlement orders shall include a provision substantially as follows:

IT IS FURTHER ORDERED that the deposit shall remain with the designated financial institution until _____date_____ at which time the minor shall reach the age of majority~~, and t~~. Time deposits ~~should~~ shall be established with a maturity date on or before that date. If automatically renewing instruments of deposit are used, the final renewal period shall be limited to the date of the age of majority. On the date of majority the financial institution is hereby authorized to release the funds of __(name of beneficiary)__ upon presentation of the deposit book or other deposit document that has been obtained from the court administrator, without further order of this Court;

* * *

Rule 145.06 Structured Settlements.

* * *

(b) Require that the company issuing the annuity or structured settlement have a financial rating equivalent to A.M. Best Co. ~~Class A-8~~ A+ Class 8 or better, or that a trust making periodic payments be funded by United States Government obligations.

* * *

(d) In its discretion, permit ~~the annuity company to make~~ a "qualified assignment" within the meaning and subject to the conditions of Section 130(c) of the Internal Revenue Code;

* * *

Cross Reference: Minn. R. Civ. P. 17.

~~**Task Force Comment--1991 Adoption**~~

Advisory Committee Comment--1992 Amendments

This rule is derived from Minn. Stat. § 540.08 (1990) and Rule 3 of the Code of Rules for the District Courts. There are also substantial new provisions.

The Task Force considered it a thoughtful recommendation that a minor's social security number be required to be included on all minor settlement petitions. Such a requirement would make it easier to locate a minor at the time of reaching majority. The Task Force ultimately concluded, however, the privacy interests dictate that the inclusion of this number should not be mandatory. The information may nonetheless be required by the financial institution with which the funds are deposited, and many lawyers will routinely include it in petitions in order to facilitate locating the minor should the need arise.

Rule 145.02(d) is new. It is designed to advise the court of factors to take into consideration when approving or disapproving a settlement on behalf of the minor or incompetent person. Rule 145.02(e) is added in 1992 to provide the court in the petition the information necessary for the court to make the determination required by Rule 145.06(a). Although the parties are the obvious source of the cost information necessary to make the cost determination, the rule explicitly requires the petition to include this information. This information must be disclosed by the parties, and not only the party filing the petition, as often the tortfeasor will have the only accurate information on this subject.

Rule 145.03 is new. It addresses a situation where a tortfeasor or insurer has negotiated a settlement with a minor's family or guardian, and court approval of that settlement is necessary. Oftentimes the plaintiff does not wish to incur attorney's fees

to obtain that approval, so as a part of the settlement, the tortfeasor or the insurer makes the arrangements to draft and present the petition. The court needs to be satisfied that the settlement is fair. The Task Force discussed at length whether or not a lawyer hired and paid by an insurer or tortfeasor should be permitted to represent the minor or incompetent person to obtain the approval of the court. It was decided that the petitioner should not be compelled to obtain counsel, and that "arranged counsel" may appear, provided that there is full disclosure to the petitioner of the interests of the insurer or tortfeasor.

Rule 145.03(b) is new and is designed to provide a procedure for the court to obtain advice to evaluate the reasonableness of a settlement. The court may appoint a lawyer selected by the petitioner or the court may designate a lawyer of its own choice. In either case, where a referral is made under this section, the lawyer accepting the referral may not represent the petitioner to pursue the claim, should the petition be denied by the court. Rule 145.03(d) provides that the cost of the consultation provided for in rule 145.03(b) shall be born equally by the petitioner and the tortfeasor or insurer.

Finally, rule 145.03(d) provides that any opinions rendered by a selected lawyer on behalf of the minor or incompetent person are advisory only.

Rule 145.05(d) expands the types of investments that may be used in managing the settlement proceeds while retaining the requirements of security of investment. It incorporates Minn. Stat. § 540.08 (1990) regarding structured settlements, and it allows that settlements may include a medical assurance agreement. A medical assurance agreement is a contract whereby future medical expenses of an undetermined amount will be paid by a designated person or entity.

Rule 145.05(e)(5) requires that funds placed in certificates of deposit or other deposits with fixed maturities have those maturities adjusted so they do not mature after the age of majority. This rule places the burden on the financial institution by the notice to be included in the order for deposit.

Rule 145.06 is new. It establishes criteria for approval of structured settlements, and it requires the court to determine the cost of the annuity to insure that the periodic payments reflect a cost comparable to a reasonable settlement amount. Where a minor or incompetent receives a verdict representing future damages greater than $100,000.00 and the guardian determines that a structured settlement pursuant to Minn. Stat. § 549.25 (1990) would be in the best interests of the minor or incompetent person, this rule shall apply to the implementation of the election pursuant to the statute.

PROPOSAL 12: Amend Form 111.02 to remove extraneous questions.

Introduction.

The Advisory Committee recommends that Form 111.02 be amended to delete two questions that serve no practical role in scheduling cases, and are therefore wholly extraneous.

Specific Recommendation.

1. Amend Form 111.02 as follows:

FORM 111.02 INFORMATIONAL STATEMENT (Civil Matters--Non-Family)

State of Minnesota **District Court**

COUNTY	JUDICIAL DISTRICT CASE NO.

Case Type: _____

_____
Plaintiff

and

INFORMATIONAL STATEMENT FORM

_____
Defendant

* * *

4. It is estimated that the discovery specified below can be completed within ____ months from the date of this form. (Check all that apply, and supply estimates where indicated.)

~~a. Interrogatories No _____ Yes _____~~

~~b. Document Requests No _____ Yes _____, estimated number: _____~~

~~c~~a. Factual Depositions No _____ Yes _____, estimated number: _____

~~d~~b. Medical Evaluations No _____ Yes _____, estimated number: _____

~~e~~c. Experts Subject to Discovery No _____ Yes _____, estimated number: _____

* * *

PROPOSAL 13: **Add a comment to all former committee comments to make it clear that they are no longer current.**

Introduction.

The Advisory Committee believes the Advisory Committee Comments from prior adoptions of the rules, and particularly the former family court and probate court rules, should continue to be included in the rules because they contain information of use to the bench and bar. The committee believes, however, that the comments should include a legend to make it clear that they have not been revised since their original adoption. The Committee was made aware of situations where attorneys relied on the now-outdated comments and believes that this simple change will help avoid confusion.

Specific Recommendation.

1. Add the following language to the heading for former advisory committee comments for rules 301-312 and 401-416:

Original Advisory Committee Comment--Not kept current.

PROPOSAL 14: **Amend Rule 304 to make it clear that an Informational Statement's due date is not postponed by continuance of a temporary hearing.**

Introduction.

The Advisory Committee believes Minn. R. Gen. Prac. 304 should be amended to remove an ambiguity regarding the due date for an informational statement. The present rule doesn't require the statement until 60 days after filing or the holding of a temporary hearing, whichever is later. In cases where no temporary hearing is held, or where one is scheduled and repeatedly continued, the statement might never be technically due. The rule will clarify this situation to avoid this unintended ambiguity. This recommendation was also made by the Conference of Chief Judges (*See* Exhibit A).

Specific Recommendations.

1. Rule 304 should be amended as follows:

Rule 304 Scheduling Of Cases

* * *

Rule 304.02 The Party's Informational Statement

(a) Timing. Within 60 days after filing an action or within 60 days after a temporary hearing is initially scheduled to occur, whichever is later, each party shall submit, on a form to be available from the court (see forms 9A & B appended to these rules), the information needed by the court to manage and schedule the case.

(b) Content. The information provided shall include:

(a1) Whether minor children are involved, and if so:

(1i) Whether custody is in dispute; and

(2ii) Whether the case involves any issues seriously affecting the welfare of the children;

(b2) Whether the case involves complex evaluation issues, and/or marital and non-marital property issues;

(c3) Whether the case needs to be expedited, and if so, the specific supporting facts;

(d4) Whether the case is complex, and if so, the specific supporting facts;

(e5) Specific facts about the case which will affect readiness for trial; and

(f6) A proposal for establishing any of the deadlines or dates to be included in a scheduling order pursuant to this rule.

(c) Unrepresented Parties. Parties not represented by a lawyer shall, instead of providing the information required above on Form 9A, provide substantially the information required on Form 9B.

* * *

~~Task Force Comment--1991 Adoption~~
Advisory Committee Comment--1992 Amendments

This rule is new. It is patterned after the similar new Minn. Gen. R. Prac. 111. The Task Force believes that the scheduling information and procedures in family court and other civil matters should be made as uniform as possible, consistent with the special needs in family court matters.

Matters not scheduled under the procedures of this rule are scheduled by motion practice under Minn. Gen. R. Prac. 303.

Rule 304.02 now provides a definite time by which informational statements are required, even if a temporary hearing is contemplated and postponed. Under the prior version of the rule, informational statements might never be due because a temporary hearing might be repeatedly postponed. If the parties seek to have a case excluded from the court scheduling process, they may do so by stipulating to having the case placed on "Inactive Status." This stupulation can be revoked by either party, but removes the case from active court calendar managment for up to one year. *See* Minnesota Conference of Chief Judges (*See* Exhibit A), Resolution Relating to the Adoption of Uniform Local Rules, Jan. 25, 1991.

This rule, as amended, provides for a separate Form 9B for use by unrepresented parties. This form contains additional information useful to the court in managing cases where one or both parties are not represented by an attorney.

2. Amend and renumber Form 9 as Form 9A, as set forth at the end of this report.

3. Adopt a new Form 9B as set forth at the end of this report.

PROPOSAL 15: Amend Rule 306.01 and adopt a new Form 10.

Introduction.

The Advisory Committee recommends a minor amendment be made to Minn. R. Gen. Prac. 306.01. This amendment would provide explicitly for the new statutory mechanism for default without hearing in certain cases. *See* Minn. Stat. § 518.13, subd. 5. The rule provides for filing of a new form for requesting default scheduling. This form has been used in the Fourth Judicial District, and the committee believes it serves a useful purpose and should be required statewide.

Specific Recommendations.

1. Amend Rule 306.01 as follows:

Rule 306. Default

Rule 306.01 Scheduling of Final Hearing. To place a matter on the default calendar for final hearing or for approval without hearing pursuant to Minn. Stat. § 518.13, subd. 5, the moving party shall submit a default scheduling request substantially in the form set forth in Form 10 appended to these rules and shall comply with the following, as applicable:

* * *

~~Task Force Comment--1991 Adoption~~

Advisory Committee Comment--1992 Amendments

Subsections (a) and (b) of this rule are derived from existing Rule 5.01 of the Rules of Family Court Procedure.

Subsection (c) of this rule is derived from existing Rule 5.02 of the Rules of Family Court Procedure.

The default scheduling request required by Rule 306.01, as amended in 1992, serves the purpose of permitting the court administrator's office to schedule the case for the right type of hearing. It is not otherwise involved in the merits. The affidavit of default is a substantive document establishing entitlement to relief by default.

2. Adopt new Form 10 as set forth at the end of this report:

FORM 9A. INFORMATIONAL STATEMENT (Family Court Matters) See Minn. Gen. R. Prac. 304.02

State of Minnesota **District Court**

COUNTY	JUDICIAL DISTRICT CASE NO.

In Re The Marriage Of:

_____
Petitioner

and

INFORMATIONAL STATEMENT FORM

_____
Respondent

1. All parties (have) (have not) been served with process.

2. All parties (have) (have not) joined in the filing of this form.

3. The parties are in agreement on all matters and this case will proceed by default.
Yes ___ No ___

If you answered yes to the preceeding question, please check all of the following that apply:

___ Default hearing by General Rules of Practice, Rule 306
___ Marriage includes minor children
___ Approval without a hearing pursuant to M.S.A. 518.13, subd. 5.
___ The marriage includes minor children, each party is represented by a lawyer and each party has signed a stipulation.
___ The marriage does not include minor children and each party has signed a stipulation.
___ The marriage does not include minor children, at least 50 days has elapsed since service of the Summons and Petition, and the respondent has not appeared in the action.

43. The case involves the following (check all that apply and supply estimates where indicated):

a. minor children No ____ Yes ____, number: ____

b. custody dispute No ____ Yes ____ Specify: _____

_____

_____

c. visitation dispute No _____ Yes _____ Specify: _____

_____

_____

Each party will submit an exhibit outlining custody and visitation proposals for each child.

d. marital property No _____ Yes _____

Identify the asset and the requested disposition: _____

_____

_____

e. nonmarital property No _____ Yes _____

Each party shall identify any nonmarital claims, their respective positions for the basis for the claim, the method(s) used to arrive at the claimed amount or trace the claim and requested disposition: _____

_____

_____

f. complex evaluation issues No _____ Yes _____

45. It is estimated that the discovery specified below can be completed within _____ months from the date of this form. (Check all that apply and supply estimates where indicated.)

a. ~~Interrogatories No _____ Yes _____~~

~~b. Document Requests No _____ Yes _____, estimated number: _____~~

e. Factual Depositions No _____ Yes _____

Identify the person who will be deposed by either party:

_____

_____

_____

~~d~~b. Medical/Vocational Evaluations No _____ Yes _____

Identify the person who will conduct such evaluations for either party:

_____

_____

_____

~~e~~c. Experts No _____ Yes _____

Identify any experts for either party:

_____

_____

_____

56. The dates and deadlines specified below are suggested.

a. _____ Deadline for bringing motion regarding: _____.
(specify)

b. _____ Deadline for completion and review of property evaluation.

c. _____ Deadline for completion and review of custody/visitation mediation.

d. _____ Deadline for completion and review of custody/visitation evaluation.

e. _____ Deadline for submitting _____ to the court.
(specify)

f. _____ Date for prehearing conference.

g. _____ Date for trial or final hearing.

67. Estimated trial or final hearing time: _____ days _____ hours (estimates less than a day must be stated in hours).

78. Alternative dispute resolution (is) (is not) recommended, in the form of:_____
(specify, *e.g.*, arbitration, mediation, or other means).

_____ Date for completion of mediation/alternative dispute resolution.
Mediation/alternative dispute resolution expected to extend over a period of _____ days/weeks.

89. Please list any additional information which might be helpful to the court when scheduling this matter, including, *e.g.*, facts which will affect readiness for trial and any issues that significantly affect the welfare of the children:

_____

_____

Signed: _____
Lawyer for (Petitioner)

Attorney Reg. #: _____

Firm: _____

Address:_____

Telephone: _____

Date: _____

Signed: _____
Lawyer for (Respondent)

Attorney Reg. #: _____

Firm: _____

Address: _____

Telephone: _____

Date:_____

FORM 9B. **ALTERNATIVE INFORMATIONAL STATEMENT** (Family Court Matters) See Minn. Gen. R. Prac. 304.02

State of Minnesota **District Court**

COUNTY	JUDICIAL DISTRICT CASE NO.

In Re The Marriage Of:

_____
Petitioner

and

INFORMATIONAL STATEMENT FORM

_____
Respondent

PLEASE READ THE FOLLOWING CAREFULLY.

COURT PERSONNEL ARE NOT ALLOWED TO HELP YOU COMPLETE THIS FORM.

These questions must be answered to help the court make a schedule for the dissolution of your marriage. This statement is your opportunity to tell the Court those factors that will require consideration in scheduling. If the information is incomplete, the Court will design its own schedule from the information supplied.

If you are representing yourself please complete questions 1 through 5. If you are an attorney please complete the entire Scheduling Information Statement.

Some questions have more than one part. Be sure to read and answer all questions completely.

1. This form is being filled out:
   a. Jointly (both parties together) _____.
   b. Separately _____.

   Check or complete the following if they apply.
   1. ___ An Order for Protection petition has been filed at some time during the marriage.
   2. ___ An Order for Protection is in effect.
   3. _____ is the Court file number for the Order for Protection.

2. FINAL HEARING BY DEFAULT

   The parties are in agreement on all matters and this dissolution will proceed by default.
   Yes ___ No ___

If you answered yes to the preceding question, please check all of the following that apply:

___ Default hearing by General Rules of Practice, Rule 306.
___ Marriage includes minor children.
___ Approval without a hearing pursuant to M.S.A. 518.13, subd. 5.
___ The marriage includes minor children, each party is represented by a lawyer and each party has signed a stipulation.
___ The marriage does not include minor children and each party has signed a stipulation.
___ The marriage does not include minor children, at least 50 days has elapsed since service of the Summons and Petition, and the respondent has not appeared in the action.

3. CHILDREN

A. Do you have minor children born or adopted the marriage?
Yes ___ No ___ If yes, how many ____

B. If there are minor children:
Do you agree who will have custody? Yes ___ No ___
Do you agree on a visitation schedule? Yes ___ No ___

C. A problem of emotional or physical disability or chemical dependency exists on the part of one party or the other which affects the welfare of the children.
Husband ____ Wife ____ Children ____

D. Using one of the attached blank sheets please explain what custody and/or visitation plan is best for the children. (If you cannot agree, each person should submit separate plans.)

4. ASSET AND DEBT INFORMATION

A. Are you satisfied that you have sufficient information about your assets and debts to make an informed decision about how they should be divided?
Yes ____ No ____

1. If yes, do you agree or disagree about how the assets and debts should be divided?
Agree ____ Disagree ____

2. If no, check the following items that still need to be evaluated.

a. ___ Home
b. ___ Business
c. ___ Retirement benefits & Pensions
(Include 401K plans, IRA's, deferred compensation)
d. ___ Savings and checking accounts
e. ___ Life insurance policies
f. ___ Stock options, bonds, mutual funds, etc.
g. ___ Personal property
h. ___ Automobiles and trucks
i. ___ Boats, motorcycles, snowmobiles, etc.
j. ___ Collectibles

k. ___ Vacation property
l. ___ Other

B. Do you agree on how to divide the debts from the marriage?
Yes ____ No ____
If no, estimate the total debt: _____

C. Have you filed, or, do you plan on filing for bankruptcy?
Yes ___ No ___

D. Do you agree on the amount of spousal maintenance (alimony), if any?
Yes ___ No ___

If no, please explain why or why not on the blank sheets provided.

E. Do you agree on the amount of child support?
Yes ___ No ___

If yes, is the amount agreed upon pursuant to the child support guidelines?
Yes ___ No ___

If no, please explain why not on the blank sheets provided.

5. MEDIATION

Do you feel it would be helpful for the parties to talk with a third person to decide some of the problems listed in this form?
Yes ___ No ___

If yes, please check one or all of the following:
___ Property/Financial problems
___ Custody problems
___ Visitation problems

6. List any other information which may help the court schedule your dissolution on the attached additional sheets if necessary.

Signature of Pro se Petitioner	Signature of Pro se Petitioner
Address	Address
City, State, Zip Code	City, State, Zip Code
Home Telephone	Home Telephone
Work Telephone	Work Telephone
Date	Date

THE NEXT TWO PAGES ARE TO BE COMPLETED BY ATTORNEYS ONLY.

7. It is estimated that the discovery specified below can be completed within _____ months from the date of this form. (Check all that apply and supply estimates where indicated.)

   a. Interrogatories No _____ Yes _____

   b. Document Requests No _____ Yes _____, estimated number: _____

   c. Factual Depositions No _____ Yes _____

   Identify the person who will be deposed by either party:

   _____
   _____
   _____
   _____

   d. Medical/Vocational Evaluations No _____ Yes _____

   Identify the person who will conduct such evaluations for either party:

   _____
   _____
   _____

   e. Experts No _____ Yes _____

   Identify any experts for either party:

   _____
   _____
   _____

8. The dates and deadlines specified below are suggested.

   a. _____ Deadline for bringing motion regarding: _____.
   (specify)

   b. _____ Deadline for completion and review of property evaluation.

   c. _____ Deadline for completion and review of custody/visitation mediation.

   d. _____ Deadline for completion and review of custody/visitation evaluation.

   e. _____ Deadline for submitting _____ to the court.
   (specify)

   f. _____ Date for prehearing conference.

9. Please list additional information which might be helpful to the court when scheduling this matter. Include complexity of case facts that will affect readiness for final hearing and any issues that significantly affect the welfare of the children:

_____

_____

_____

_____

_____

_____

_____

Signed: _____
Lawyer for (Petitioner)

Attorney Reg. #: _____

Firm: _____

Address: _____

Telephone: _____

Date: _____

Signed: _____
Lawyer for (Respondent)

Attorney Reg. #: _____

Firm: _____

Address: _____

Telephone: _____

Date: _____

FORM 10 **DEFAULT SCHEDULING REQUEST** (Gen. R. Prac. 306.01 and Minn. Stat. § 518.13, subd. 5)

State of Minnesota **District Court**

COUNTY	JUDICIAL DISTRICT CASE NO.

In Re The Marriage of:

_____
Petitioner

and

DEFAULT SCHEDULING REQUEST

_____
Respondent

The above entitled matter is submitted for default scheduling as follows:

(Check all appropriate lines)

____ Approval without a hearing pursuant to Minn. Stat. § 518.13, subd. 5.
____ The marriage includes minor children, each party is represented by a lawyer and each party has signed a stipulation.
____ The marriage does not include minor children and each party has signed a stipulation.
____ The marriage does not include minor children, at least 50 days have elapsed since service of the Summons and Petition, and the respondent has not appeared in the action.
____ Default hearing required or requested
____ Marriage includes minor children

Submitted by:

_____
Name of Party

_____
Atty Name (Not firm name)

_____
Address

_____

_____
Phone Number

_____
MN Atty ID No.

CX-89-1863

MINNESOTA CONFERENCE OF CHIEF JUDGES
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, Minnesota 55155

RESOLUTION

RELATING TO TECHNICAL CHANGES TO GENERAL RULES OF PRACTICE

WHEREAS, the General Rules of Practice for the District Courts became effective January 1, 1992, and several minor technical changes are necessary to avoid confusion for litigants, the bench and the bar;

NOW THEREFORE, BE IT RESOLVED, that the Conference of Chief Judges hereby recommends to the Supreme Court Advisory Committee on the General Rules of Practice that:

1. Gen.R.Prac. 104 be amended to clarify that Gen.R.Prac. 141.02 controls the timing of the filing of a certificate of representation and parties in condemnation cases;

2. Gen.R.Prac. 104 be amended to clarify that, in wrongful death cases, the filing of a certificate of representation and parties is not required until the filing of the first paper subsequent to commencement of the wrongful death action.

3. Gen.R.Prac. 111.01 be amended by adding election contests to the list of cases excluded from rule 111.

4. Gen.R.Prac. 111.02 be amended to clarify that, in wrongful death actions, the 60 day period for filing informational statements does not begin to run until the filing of either the complaint or answer.

5. Gen.R.Prac. 111.02 be amended by clarifying that, in condemnation cases, the 60 day period for filing informational statements does not begin to run until the filing of a notice of appeal from a commissioners' award.

6. Gen.R.Prac. 125 be amended to clarify that it does not apply to defaults, dissolutions, or housing court matters.

7. Gen.R.Prac. 142.06 be amended by replacing the reference to section 501.35 with a reference to section 501B.18.

8. Gen.R.Prac. 145.06(d) be amended by deleting the phrase "the annuity company to make."

Dated July 21, 1992

Kevin S. Burke

Honorable Kevin S. Burke
Chair, Conference of Chief Judges

EXHIBIT A