CX-89-1863
STATE OF MINNESOTA
IN SUPREME COURT

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

August 19, 2002

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ADVISORY COMMITTEE ON GENERAL RULES OF PRACTICE

Summary of Committee Recommendations

The Court's Advisory Committee on General Rules of Practice met four times in 2001 and 2002 to discuss various issues relating to the operation of the rules. This report contains three recommendations: two for rule changes and one significant recommendation that a rule change not be made.

These amendments are briefly summarized:

1. The committee spent a substantial amount of time considering a recommendation from the Minnesota Tribal Court State Court Forum that a rule be adopted to provide for recognition of tribal court judgments, orders, or other actions by Minnesota trial courts. The committee held public hearings on the question presented by this proposal and after study determined that it does not recommend adoption of this rule.

2. The committee recommends that Rule 145, relating to minor settlements, be amended in two important respects: to modernize its language to provide for handling of minor accounts in the post-passbook banking world and to add a new requirement that at least two proposals be obtained for structured settlements where one of the proposals is from an annuity issuer that is related to a party or its insurer.

3. The committee recommends that Rule 522, governing pleadings in conciliation court matters removed to district court for trial de novo, be amended to make it clear that the court retains the authority to allow amendment of pleadings upon a showing of cause as in other district court actions, notwithstanding the provision for amendment as a matter of right allowed for a limited period of time by the existing rule.

Other Matters

The committee also considered issues relating to the asking of questions by jurors and the nature of required notice in bail forfeiture proceedings. Because those matters have been addressed by court decisions, it does not appear necessary or desirable to amend the rules as to these matters. *See State v. Costello*, 646 N.W.2d 204 (Minn. 2002) (rejecting juror questions in

criminal matter); *State v. Rosillo*, 645 N.W.2d 735 (Minn. Ct. App. 2002) (interpreting and enforcing an existing provision of Minn. R. Gen. Prac. 702(e)).

The committee also reviewed portions of the Final Report of the Minnesota Supreme Court Jury Task Force (Dec. 20, 2001), and previously provided comments to the Court as to four of the recommendations in that report that relate directly to the Minnesota General Rules of Practice.

Effective Date

The committee believes that its recommended changes to the rules can be effected by order later this year, with an effective date of January 1, 2003. The committee continues to believe that amendments taking place with a January 1 effective date are most readily communicated and published to the bench and bar. Neither of these recommended amendments should require significant lead-time. Because of the amount of interest in the rule relating to tribal court judgments, the committee believes a Court hearing on the recommendations in this report would be appropriate.

Respectfully submitted,

MINNESOTA SUPREME COURT ADVISORY COMMITTEE ON GENERAL RULES OF PRACTICE

Recommendation 1: **There is not clear support for implementation of a rule-based process for determining the effect to be given judgments and orders of tribal courts by the Minnesota trial courts.**

Introduction

The advisory committee was asked to look at a proposal for adoption of a rule to give full recognition—the equivalent of extending faith and credit—to judgments, orders, and other actions of tribal courts. After extensive consideration, including three meetings where interested members of the public were allowed to address the committee, we reached the conclusion that it is not appropriate to address the question of the authority of such tribal court decisions by means of a rule at this time. This conclusion is not clear-cut, nor was it readily reached by the advisory committee. On balance, however, the committee concluded that the proposed rule is largely substantive in nature, and recommends that this subject be left to consideration on a case-by-case basis or for consideration by the legislative branch to the extent the issues properly legislative.

One of the first conclusions reached by this committee is that if a court rule is to be used to address the question of recognition of tribal court orders and judgments, then the Minnesota General Rules of Practice would appear to be the appropriate place for the rule. Recognition of tribal court adjudications relates to civil and criminal proceedings, and any rule should address the various possible proceedings in a consistent way.

The Proposed Rule. The rule proposed by the Minnesota Tribal Court State Court Forum was drafted to accomplish a number of purposes, and would largely serve those goals. First, it would create a presumption that any judgment or order rendered by a tribal court of a tribe recognized by federal statute is valid and enforceable in state court as though it had been rendered by a court of a sister state. Second, it contains specific and limited criteria under which the tribal court order would not be given effect. Third, it creates an expedited process for implementing tribal court orders on an "emergency" basis. Fourth, it includes a specific provision carving out judgments or orders where existing federal law provides for full faith and credit; in those circumstances, the procedures of the federal law would govern.

In the committee's meetings, petitioners described the proposed rule as encompassing elements of both "full faith and credit" and "comity." The nature of these legal concepts is important to understanding the advisory committee's recommendations.

Full Faith and Credit. "Full faith and credit" is a term of art, with a meaning defined by the requirement of Article IV of the U. S. Constitution, which provides:

Article IV

> Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

By its terms, full faith and credit is mandatory—a state does not exercise discretion in giving effect to the proper judgments of a sister state. *See Magnolia Petroleum Co. v. Hunt*, 320 U.S. 430 (1943)(foreign judgment must be enforced even though action barred by limitations in the jurisidiction). Through full faith and credit, a sister state's judgment is given res judicata effect in all other states. *See, e.g., id.; Hansberry v. Lee*, 311 U.S. 32 (1040).

Comity. In contrast, comity is fundamentally a discretionary doctrine. There is no requirement under constitutional or statutory authority, or generally even by common law, that requires comity be accorded a judgment from the court of a foreign country. *See Aetna Life Insurance Co. v. Tremblay*, 223 U.S. 185 (1912) (no right, privilege or immunity conferred by Constitution to judgments of foreign states and nations); *Hilton v. Guyot*, 159 U.S. 113, 234 (1895).

Comity is also an inherently flexible doctrine. A court asked to decide whether to recognize a foreign order can consider whatever aspects of the foreign court proceedings it deems relevant. The proposed rule here contains a presumption of validity and a list of specified (and apparently exclusive) grounds where the presumption of validity can be overcome. Because other grounds would not permit the presumption to be overcome, the rule significantly limits the reach of the comity doctrine.

The result of blending these doctrines in the proposed rule is to make aspects of comity either mandatory or, at least, presumptively mandatory, in contrast to the traditionally discretionary nature of comity. The committee believes this change is one that should be approached cautiously. The "emergency" provisions of the proposed rule are also troublesome. The very importance of the situations governed by these expedited provisions—"non-criminal orders for protection or apprehension . . . and other emergency orders" are situations where

judicial scrutiny of the validity of the order and the circumstances by which it was obtained may be particularly appropriate.

Legislation in Area. The fact that Congress and the Minnesota Legislature have chosen to legislate some aspects of the enforcement of tribal court orders and judgments in particular, and those of foreign jurisdictions more generally, also militates against adoption of the rule proposed here. Important federal statutes include:

- Indian Child Welfare Act, 25 U.S.C. §§ 1901-1963 (2000).
- Violence against Women Act, 18 U.S.C. § 2265 (2000).
- Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B (2000).

The Minnesota Legislature has addressed enforcement of orders and judgments in two important places. The Minnesota Uniform Enforcement of Foreign Judgments Act, MINN. STAT. §§ 548.26-.33 (2000), establishes procedures for enforcement of judgments rendered by sister states; the Minnesota Uniform Foreign Country Money-Judgments Act, MINN. STAT. § 548.35 (2000), creates a procedure for filing and enforcing judgments rendered by courts in other countries. Because the latter class of judgments is not entitled to full faith and credit under the Constitution, the court is allowed a more expansive and discretionary role in deciding what effect they have.

Testimony. The committee heard testimony and argument from representatives of the Tribal Court Forum as well as other parties. Numerous parties provided the committee written materials. These presentations provided cogent analysis of reasons why recognition of tribal court judgments and orders would advance the interests of tribal court litigants. Unfortunately, they also provided testimony about troublesome proceedings in tribal courts where recognition of the results would be inconsistent with commonly-held notions of fair play and sound judicial administration. Ultimately, the committee came to no conclusion about the quality of justice in tribal courts generally or in any particular proceedings. The committee does believe, however, that it would be inadvisable to adopt a rule that decides these questions for all cases based on any collection of anecdotal evidence about tribal court proceedings generally. Instead, the current procedure, allowing parties and courts to address the question of whether a particular order or judgment should be given effect on a case-by-case basis, should be carried forward, although rule making on procedural aspects of these issues may be appropriate in the future.

The committee also received recommendations from the Minnesota Sheriffs' Association and The Minnesota County Attorneys Association. Both of these reports identified additional issues relating to the burdens that a rule recognizing all tribal court judgments would impose on limited resources in the counties, and concluded that consideration of the petition should be delayed pending further inquiry or a rule should not be adopted and that these matters should be left to the legislative process or development through the judicial case-by-case process. A letter from a Co-Chair of the MSBA Court Rules and Administration Committee recommended a combination of rule and statutory amendments, and concluded that further study should be undertaken.

Consideration of Alternatives. The committee did consider whether the proposed rule might warrant adoption if it were modified to address particular concerns expressed to the committee about tribal court proceedings. These possible modifications include provisions that would:

- apply the rule only to orders and judgments from tribal courts if they are "courts of record." (relying on WIS. STAT. § 806.245(1)(c) & (3) addressing requirements for determining whether court is "of record").

- provide that recognition of tribal court orders and judgments would be not greater than those of courts of sister states. (using a provision from OKLA. ST. DIST. Ct. R. 30(B)).

- create an express preponderance-of-the-evidence burden of proof for the party seeking to enforce a tribal court order or judgment,

- permit a Minnesota court to consider whether the tribal court proceedings provided the parties fundamental due-process rights, including a right to appear, a right to compel attendance of witnesses, and the right to have the matter heard before an independent magistrate; and

- permit the court not to enforce an order or judgment that contravenes the public policy of the State of Minnesota. (derived from MICH. R. CIV. P. 2.615 (C)(2)(c); N.D. R. CT. 7.2 (b)(4). This standard is also a factor for not applying a foreign nation money judgment under the Minnesota Uniform Foreign Country Money-Judgments Act, MINN. STAT. § 548.35, subd. 4, (b)(3)).

The committee concluded that these changes, while possibly helpful, did not address the main issue relating to the rule—the substantive nature of it and the undesirability of making these changes by court rule. During the committee's consideration, and as a result of discussions with the Conference of Chief Judges, the petitioner's proposed rule was amended to include a reciprocity provision. The committee believes this would be a desirable change if a rule is to be adopted. This change also does not resolve the committee's more fundamental questions about this rule.

Specific Recommendation

The committee believes that the petitioners have made a prima facie case of a need to address the issue of enforcement of tribal court orders and judgments in state court, but the proposed rule is fundamentally substantive in nature and should not be adopted at this time. To the extent the proposed rule presents substantive issues, some might be better addressed in a forum designed for policy determination with broad-based public participation, i.e., the Minnesota Legislature or by the judiciary on a case-by-case basis. To the extent the proposed rule addresses procedural questions ancillary to the substantive issues, the procedural issues would probably be better addressed after the substantive guidelines are established. Because court procedure is a matter within the primary and exclusive authority of the court, constitutional separation of powers should prevent legislative action in some aspects of this proposal.

Recommendation 2: **Rule 145 relating to minor settlements should be amended to modernize the provisions for implementing minor settlements involving bank accounts and to create a new requirement for providing the court a second proposal for a structured settlement in certain circumstances.**

Introduction

The committee has been aware of issues concerning the mechanics of administering minor settlements and the use of structured settlements in the minor-settlement context for some time. *See, e.g.*, Recommendations of Minnesota Supreme Court Advisory Committee on General Rules of Practice, No. CX-89-1863, at 15-16 (Final Report, Oct. 6, 2000). The current rule is based on a long-abandoned relic of the banking world—the passbook. The proposed changes modernize the rule to provide for use of accounts based on periodic statements as are now used by banks and to require affirmative acknowledgment of the financial institution that funds will not be disbursed without court order. Simply put, the rule has not kept up with changes in the banking world.

The proposed rule also addresses a problem relating to structured settlements where the annuity is issued by an entity related to the defending insurer. Although this situation is not inherently inappropriate, it may create either the risk or appearance of the annuity being less favorable to the minor. Accordingly, the committee recommends that in this situation the rules should require the proponent of the settlement to obtain at least one additional bid for an annuity.

Specific Recommendation

Rule 145 should be amended as follows:

RULE 145. ACTIONS ON BEHALF OF MINORS AND INCOMPETENT PERSONS

* * *

Rule 145.05. Terms of the Order

The court's order shall:

(a) Approve, modify or disapprove the proposed settlement or disposition and specify the persons to whom the proceeds are to be paid.

(b) State the reason or reasons why the proposed disposition is approved if the court is approving a settlement for an amount which it feels is less than what the injuries and expenses,

might seem to call for, e.g., limited insurance coverage, dubious liability, comparative fault or other similar considerations.

(c) Determine what expenses may be paid from the proceeds of any recovery by action or settlement, including the attorney's fee. Attorney's fees will not be allowed in any amount in excess of one-third of the recovery, except on a showing that: (1) an appeal to an appellate court has been perfected and a brief by the plaintiff's lawyer has been printed therein and (2) there has been an expenditure of time and effort throughout the proceeding which is substantially disproportionate to a one-third fee. No sum will be allowed, in addition to attorney fees, to reimburse any expense incurred in paying an investigator for services and mileage, except in those circumstances where the attorney's fee is not fully compensatory or where the investigation must be conducted in any area so distant from the principal offices of the lawyer so employed that expense of travel and related expense would be substantially equal to, or in excess of, usual investigating expenses.

(d) Specify what disposition shall be made of the balance of the proceeds of any recovery after payment of the expenses authorized by the court.

(1) The court may authorize investment of all or part of such balance of the proceeds in securities of the United States, or in an annuity or other form of structured settlement, including a medical assurance agreement, but otherwise shall order the balance of the proceeds deposited in one or more banks, savings and loan associations or trust companies where the deposits will be fully covered by Federal deposit insurance.

(2) In lieu of such disposition of the proceeds, the order may provide for the filing by the petitioner of a surety bond approved by the court conditioned for payment to the ward in a manner therein to be specified of such moneys as the ward is entitled to receive, including interest which would be earned if the proceeds were invested.

(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:

(1) that the defendant pay the sum to be deposited directly to the financial institution;

(2) that the ~~deposit book or other~~ account be opened in the name of the minor or incompetent person and that any deposit document be issued in the name of the minor or incompetent person;

(3) that the petitioner shall, at the time of depositing, supply the financial institution with a tax identification number or a social security number for the minor and a copy of the order approving settlement; and

(~~3~~ 4) that ~~the deposit book (or other deposit document) be transmitted by the~~ financial institution forthwith acknowledge to the court receipt of the order approving settlement and the sum and that no disbursement of the funds will occur unless the court so orders, using the form substantially equivalent to Form 145.1; ~~to the court administrator for safekeeping within 5 days after its receipt of the deposit~~;

(~~4~~ 5) that the financial institution shall not make any disbursement from the deposit except upon order of the court; and

(~~5~~ 6) 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 in 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; and time deposits shall be established with a maturity date on or before the minor's age of majority. If automatically renewing instruments of deposit are used, the final renewal period shall be limited to the date of the age of majority.

~~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. Time deposits shall be established with a maturity date on or before that date the minor's age of majority. 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 the funds (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;~~

~~(6) that the petitioner shall, at the time of depositing, supply the financial institution with a tax identification number or a social security number for the minor; and~~

(7) that the petitioner shall be ordered to file or cause to be filed timely state and federal income tax returns on behalf of the minor.

(f) Authorize or direct the investment of proceeds of the recovery in securities of the United States only if practicable means are devised comparable to the provisions of paragraphs (d) and (e) above, to insure that funds so invested will be preserved for the benefit of the minor or incompetent person, and the original security instrument be deposited with the court administrator consistent with paragraph (e) above.

(g) Provide that applications for release of funds, either before or upon the age of majority may be made using the form substantially similar to Form 145.2.

Rule 145.06. Structured Settlements

If the settlement involves the purchase of an annuity or other form of structured settlement, the court shall:

(a) Determine the cost of the annuity or structured settlement to the tortfeasor by examining the proposal of the annuity company or other generating entity;

(b) Require that the company issuing the annuity or structured settlement:

(1) Be licensed to do business in Minnesota;

(2) Have a financial rating equivalent to A. M. Best Co. A+, Class VIII or better; ~~and~~

(3) Has complied with the applicable provisions of MINN. STAT. § 549.30 to § 549.34;

or that a trust making periodic payments be funded by United States Government obligations; and

(4) If the company issuing the proposed annuity or structured settlement is related to either the settling party or its insurer, that the proposed annuity or structured settlement is at least as favorable to the minor or incompetent person as at least one other competitively-offered annuity obtained from an issuer qualified under this rule and not related to the party or its insurer. This additional proposal should be for an annuity with the same terms as to cost and due dates of payments.

(c) Order that the original annuity policy be deposited with the court administrator, without affecting ownership, and the policy be returned to the owner of the policy when:

(1) The minor reaches majority;

(2) The terms of the policy have been fully performed; or

(3) The minor dies, whichever occurs first.

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

(e) In its discretion, order the tortfeasor or its insurer, or both of them, to guarantee the payments contracted for in the annuity or other form of structured settlement; and

(f) Provide that:

(1) The person receiving periodic payments is entitled to each periodic payment only when the payment becomes due;

(2) That the person shall have no rights to the funding source; and

(3) That the person cannot designate the owner of the annuity nor have any right to control or designate the method of investment of the funding medium; and

(g) Direct that the appropriate party or parties will be entitled to receive appropriate receipts, releases or a satisfaction of judgment, pursuant to the agreement of the parties.

Advisory Committee Comment—2002 Amendment

Rule 145.05 is revamped to create a new procedure for handling the deposit of funds resulting from minor settlements. The new rule removes provisions calling for deposit of funds in "passbook" savings accounts, largely because this form of account is no longer widely available from financial institutions. The revised rule allows use of statement accounts, but requires that the financial institution acknowledge receipt of the funds at the inception of the account. A form for this purpose is included as Form 145.1. Additionally, the rule is redrafted to remove inconsistent provisions. Under the revised rule, release of funds is not automatic when the minor reaches majority;a separate order is required. A form

to implement the final release of funds, as well as any permitted interim release of funds, is included as Form 145.2.

Rule 145.06(b)(4) is a new provision to require at least two competitive proposals for a structured settlement. This requirement applies only when one of the proposals is for an annuity issued by the settling party, its liability insurer, or by an insurer related to either of them.The rule requires that the competitive bids be issued by annuity companies that would be qualified to issue an annuity that complies with the requirements of Rule145.06. In order to permit the trial court to determine that the proposed settlement adequately provides for the interests of the minor,the competitive bids must be for annuities with comparable terms. The rule requires only a second proposal, but permits the court to require additional proposals or analysis of available proposals in its discretion. The rule, as revised, does not direct how the trial court should exercise its discretion in approving or disapproving the proposed structure settlement.It is intended,however, to provide the court some information upon which it can base the decision.

FORM 145.1 RECEIPT OF MINOR SETTLEMENT ORDER AND FUNDS
(Gen. R. Prac. 145.05)

State of Minnesota **District Court**

County of _____ **_____ Judicial District**

Case Type: _____

_____
Plaintiff/Petitioner **Case No. _____**

and **RECEIPT OF MINOR SETTLEMENT ORDER AND FUNDS**
(Provided Pursuant to Rule 145 of the Minnesota General Rules of Practice)

_____
Defendant/Respondent

1. _____("**Financial Institution**") acknowledges receipt of the sum of $ _____on behalf of _____ in this action.

2. **Financial Institution** acknowledges receipt of the Order Approving Settlement and For Deposit Into Restricted Account dated _____ in this action, and that the funds delivered remain subject to that order in the account specified below:

Name of Depository: _____

Branch Name: _____

Branch Address: _____

_____

Account Number: _____

Date Account Opened: _____

Current Balance: $ _____

3. This account is a federally insured, restricted account, and no withdrawal of either principal or interest shall be allowed by **Financial Institution** without a signed court order in this case.

Dated: _____ Type or Print Name _____

Signature: _____

Title: _____

FORM 145.2 **COMBINED MOTION AND ORDER FOR RELEASE OF MINOR SETTLEMENT FUNDS**

(Gen. R. Prac. 145.05)

State of Minnesota **District Court**

County of _____ **_____ Judicial District**

Case Type: _____

_____

Plaintiff/Petitioner **Case No. _____**

and **COMBINED MOTION AND ORDER FOR RELEASE OF MINOR SETTLEMENT FUNDS**

_____

Defendant/Respondent (Pursuant to Rule 145 of the Minnesota General Rules of Practice)

1. _____("Movant") requests an order of permitting withdrawal of funds now held in a restricted account pursuant to a minor settlement approved in this action on _____. Movant brings this Motion as the

_____ (Minor, now past the age of majority–Date of Birth _____)

or

____ _____to minor. (Specify whether trustee, custodian, parent, legal guardian, conservator, or other specified role).

2. Funds are now held on behalf of _____ in the following account:

Name of Depository: _____

Branch Name: _____

Branch Address: _____

_____

Account Number: _____

Date Account Opened: _____

Current Balance: $ _____

3. Previous withdrawals from the account, each of which was approved by the Court, are as follows:

_____ None.

or

_____ $ _____ on _____ for the purpose of _____

$ _____ on _____ for the purpose of _____

$ _____ on _____ for the purpose of _____

❑ Check if additional space is necessary, and attach a separate sheet with that information.

4. Movant seeks the release of funds in the amount of $ _____ for the following reason:

_____ Minor has reached the age of 18 and this is a final distribution

or

_____ The funds will be used for the benefit of the minor in the following way:

_____

_____

_____.

❑ Check if additional space is necessary, and attach a separate sheet with that information.

5. Funds should be disbursed as follows:

$ _____ to _____

$ _____ to _____

$ _____ to _____

❑ Check if additional space is necessary, and attach a separate sheet with that information.

I declare under penalty of perjury under the laws of the State of Minnesota that the foregoing is true and correct and that any funds released pursuant to this request will be used for the benefit of the minor and in the way stated.

Dated: _____.

Type or Print Name _____

Signature: _____

ORDER APPROVING RELEASE OF FUNDS

Pursuant to the foregoing Motion,

IT IS HEREBY ORDERED that

1. Movant is authorized to withdraw funds to be made payable as follows:

$ _____ to _____

$ _____ to _____

2. _____ This is a final distribution of funds from this account and the account may accordingly may be closed following this final distribution

or

_____ This is not a final distribution of funds and this account must be maintained as to the remaining funds and subject to all restrictions on distribution previous ordered.

3. Other provisions: _____

_____

Dated: _____.

_____

Judge of District Court

Recommendation 3: **Rule 522 relating to proceedings in district court after decision by a conciliation court should be amended to make it clear that the pleadings may be amended in accordance with the rules governing district court actions.**

Introduction

Rule 522 allows a party to serve amended pleadings within 30 days after removing an action from conciliation court to district court. The rule is not intended to limit the ability of the court to allow further amendment, but its silence on that subject has occasionally been misinterpreted by trial courts. Given the policy allowing liberal amendment of pleadings and the fact the conciliation court rules are often used by unrepresented parties, the committee believes it would be useful to have the rule deal explicitly for further amendment in district court where appropriate under the district court rules.

Specific Recommendation

Rule 522 should be amended as follows:

RULE 522. PLEADINGS IN DISTRICT COURT

The pleadings in conciliation court shall constitute the pleadings in district court. Any party may amend its statement of claim or counterclaim if, within 30 days after removal is perfected, the party seeking the amendment serves on the opposing party and files with the court a formal complaint conforming to the Minnesota Rules of Civil Procedure. If the opposing party fails to serve and file an answer within the time permitted by the Minnesota Rules of Civil Procedure, the allegations of the formal complaint are deemed denied. Amendment of the pleadings at any other time shall be allowed in accordance with the rules of civil procedure. On the motion of any party or on its own initiative, the court may order either or both parties to prepare, serve and file formal pleadings.

Advisory Committee Comment—2002 Amendment

Rule 522 establishes a streamlined procedure for amendment of pleadings as a matter of right during the first 30 days after an action is removed to district court. The 2002 amendment adds a sentence before the last sentence to make it clear that the parties may move for leave to amend at other times, and the court can allow amendment on its own initiative. In these situations, the standards for amendment and supplementation of pleadings contained in Rule 15 of the Minnesota Rules of Civil Procedure and the case law interpreting that rule should guide the court in deciding whether to allow amendment.