

# Minnesota General Rules of Practice for the District Courts

Includes amendments effective January 1, 2010

## TITLE VI. CONCILIATION COURT RULES

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## **APPENDIX OF FORMS**

Effective January 1, 2010, the following forms are deleted from these Rules and are maintained by State Court Administration on the judicial branch website at <http://www.mncourts.gov/>:

- UCF-8                Statement of Claim and Summons
- UCF-9                Judgment and Notice of Judgment
- UCF-10              Defendant's Counterclaim and Notice of Hearing
- UCF-22              Financial Disclosure Form
- UCF-508.1          Affidavit of Service

### **Rule 501. Applicability of Rules**

Rules 501 through 525 apply to all conciliation court proceedings.

### **Rule 502. Jurisdiction**

The conciliation court shall have jurisdiction and powers as prescribed by law.

### **Rule 503. Computation of Time**

(a)            **General.** All time periods shall be measured by starting to count on the first day after any event happens which by these rules starts the running of a time period. If the last day of the time period is anything other than a working week day, then the last day is the next working week day.

(b)            **Time Periods Less Than Seven Days.** When the time period is less than seven days, only working week days shall be counted.

(c)            **Working Week Day.** A “working week day” means a day which is not a Saturday, Sunday or legal holiday. For purposes of this rule, a legal holiday includes all state level judicial branch holidays established pursuant to law and any other day on which county offices in the county in which the conciliation court is held are closed pursuant to law or court

order. With respect to service or filing by U.S. Mail, a day that the United States Mail does not operate is not a “working week day.”

(Amended effective January 1, 2010.)

### ***1993 Committee Comment***

*State level judicial branch holidays are defined in Minnesota Statutes, section 645.44, subdivision 5 (1990), which includes: New Year’s Day, January 1; Martin Luther King’s Birthday, the third Monday in January; Washington’s and Lincoln’s Birthday, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Veteran’s Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25. Section 645.44, subdivision 5, further provides that when New Year’s Day, January 1; or Independence Day, July 4; or Veteran’s Day, November 11; or Christmas Day, December 25; falls on Sunday, the following day shall be a holiday and that when New Year’s Day, January 1; or Independence Day, July 4; or Veteran’s Day, November 11; or Christmas Day, December 25; falls on Saturday, the preceding day shall be a holiday. Section 645.44, subdivision 5, also authorizes the judicial branch to designate certain other days as holidays. The 1992 Judicial Branch Personnel Plan designates the Friday after Thanksgiving as a holiday.*

*Conciliation courts are housed in county buildings, and the county is authorized to close county offices on certain days pursuant to Minnesota Statutes, section 373.052 (1990). Thus, if a county closes its offices under section 373.052 on a day that is not a state level judicial branch holiday, such as Christopher Columbus Day, the second Monday in October, the conciliation court in that county would nevertheless include that day as a holiday for the purpose of computing time under [Rule 503](#). See *Mittelstadt v. Breider*, 286 Minn. 211, 175 N.W.2d 191 (1970) (applying section 373.052 to filing of notice of election contest with district court). If a county does not close its offices on a day that is a state level judicial branch holiday, such as the Friday after Thanksgiving, the conciliation court in that county must still include that day as a holiday for the purpose of computing time under [Rule 503](#).*

### ***Advisory Committee Comment—2009 Amendment***

*Rule 503(c) is amended to clarify that for service or filing by mail, if U. S. Postal Service offices are closed on a particular day, that day is not deemed a “working week day” for the purpose of the rule, effectively permitting the mailing to be made on the next day that is a “working week day.” This change conforms the rule to the time calculation provision of Minn. R. Civ. P. 6.01, which in turn was amended in 2008 to conform the rule to the Minnesota Supreme Court decision in *Commandeur LLC v. Howard Hartry, Inc.*, 724 N.W.2d 508 (Minn. 2006) (holding that where the last day of a time period occurred on Columbus Day, service by mail permitted by the rules was timely if mailed on the following day on which mail service was available).*

## **Rule 504. Judge(s); Administrator; Reporting**

(a) **Judges.** The judge(s) and, where authorized by statute, full and part time judicial officers and referees of the district court shall serve as judge(s) of conciliation court for such periods and at such times as the judge(s) shall determine. A judge, judicial officer, or referee so serving shall be known as a conciliation judge.

(b) **Administrator.**

(1) The court administrator shall manage the conciliation court, and may delegate a deputy or deputies to assist in performing the administrator's duties. The court administrator shall keep records and accounts and perform such duties as may be prescribed by the judge(s). The court administrator shall account for, and transmit to the appropriate official, all fees received as required by statute or rule.

(2) Under supervision of the conciliation court judges, the court administrator shall explain to litigants the procedures and functions of the conciliation court and shall on request assist litigants in filling out the forms provided under [Rules 507\(b\)](#) and [518\(b\)](#) of these rules and on request shall forward properly completed statement of claim and counterclaim forms to the administrator of the appropriate conciliation court together with the applicable fees, if any. The court administrator shall also advise litigants of the availability of subpoenas to obtain witnesses and documents. The performance of these duties shall not constitute the practice of law.

(c) **Reporting.** Conciliation court trials and proceedings shall not be reported.

*1993 Committee Comment*

*[Rule 504\(b\)\(2\)](#) requires court administrators to advise litigants of the availability of subpoenas under [Rule 512\(a\)](#). The required advice may be provided orally or in writing (e.g. on the litigant's copy of a court form, an accompanying instruction sheet, or in a brochure).*

**Rule 505. Commencement of Action**

An action is commenced against a defendant when a statement of claim as required by [Rule 507](#) is filed with the court administrator of the conciliation court having jurisdiction and the applicable fees are paid to the administrator or the affidavit in lieu of filing fees prescribed in [Rule 506](#) is filed with the administrator.

**Rule 506. Fees; Affidavit in Lieu of Fees**

The court administrator shall charge and collect a filing fee in the amount established by law and the law library fee, from every plaintiff and from every defendant when the first paper for that party is filed in any conciliation court action. If the plaintiff or defendant who is a natural person signs and files with the court administrator an affidavit claiming an inability to pay the applicable fees, no fees are required. If the affiant prevails on a claim or counterclaim, the amount of the fees which would have been payable by the affiant must be included in the order for judgment and paid to the administrator of conciliation court by the affiant out of any money recovered by the affiant on the judgment.

### ***1993 Committee Comment***

*Statewide conciliation court filing fees are established by the legislature (see Minnesota Statutes, section 357.022). The law library fee is established by the local law library board, and these fees typically range from \$0 to \$10 Minnesota Statutes, sections 134A.09 and 134A.10 (1990 and 1991 Supplement). The fee waiver procedure under [Rule 506](#) is essentially a clerical process, and the waiver applies to the conciliation court filing and law library fees only. The procedure for waiver of other fees e.g. service fees under [Rule 508\(d\)\(3\)](#), subpoena fees under [Rule 512\(a\)](#), and removal/appeal fees under [Rule 521\(b\)\(4\)](#) is set forth in Minnesota Statutes, section 563.01 (1990), which requires a formal application to, and decision by, the court. Only a party who is a natural person may utilize the fee waiver procedures under section 563.01 and [Rule 506](#).*

### **Rule 507. Statement of Claim and Counterclaim; Contents; Verification**

**(a) Claim; Verification; Contents.** Each statement of claim and each counterclaim shall be made in the form approved by the court and shall contain a brief statement of the amount and nature of the claim, including relevant dates, and the name and address of the plaintiff and the defendant. The court administrator shall assist with the completion of the statement of claim and counterclaim upon request. Each statement of claim and each counterclaim shall also be signed and sworn to by the party, or the lawyer representing the party, in the presence of a notary public or the court administrator.

**(b) Uniform Statement of Claim or Counterclaim; Acceptance by Court.** A statement of claim or counterclaim in the uniform form as published by the state court administrator shall be accepted by any conciliation court administrator when properly completed and filed with the applicable fees, if any.

(Amended effective January 1, 2010.)

### **1993 Committee Comment**

*Rule 507(b) requires that all courts accept a statement of claim or counterclaim properly completed on the form set forth in the appendix. Rule 507(a) authorizes a court to tailor the forms that it makes available to litigants for use in that court or to approve forms prepared by the litigants. This rule allows both the court and the litigants to benefit from increased efficiency through the use of various preprinted forms and word processor or computer generated forms. Courts using tailored forms cannot, however, reject a statement of claim or counterclaim properly completed on the form set forth in the appendix.*

### **Rule 508. Summons; Trial Date**

(a) **Trial Date.** When an action has been properly commenced, the court administrator shall set a trial date and prepare a summons. Unless otherwise ordered by a judge, the trial date shall not be less than 10 days from the date of mailing or service of the summons.

(b) **Contents of Summons.** The summons shall state the amount and nature of the claim; require the defendant to appear at the trial in person or if a corporation, by officer or agent; shall specify that if the defendant does not appear judgment by default may be entered for the amount due the plaintiff, including fees, expenses and other items provided by statute or by agreement, and where applicable, for the return of property demanded by the plaintiff; and shall summarize the requirements for filing a counterclaim.

(c) **Service on Plaintiff.** The court administrator shall summon the plaintiff by first class mail.

(d) **Service on Defendant.**

(1) If the defendant's address as shown on the statement of claim is within the county, the administrator shall summon the defendant by first class mail, except that if the claim exceeds \$2,500 the summons must be served by the plaintiff by certified mail, and proof of service must be filed with the administrator. If the summons is not properly served and proof of service filed within 60 days after issuance of the summons, the action shall be dismissed without prejudice.

(2) If the defendant's address as shown on the statement of claim is outside the county but within the state, and the law provides for service of the summons anywhere within the state, the administrator shall summon the defendant by first class mail, except that if the claim exceeds \$2,500 the summons must be served by the plaintiff by certified mail, and proof of service must be filed with the administrator. If the summons is not properly served and proof of service filed within 60 days after issuance of the summons, the action shall be dismissed without prejudice.

(3) If the defendant's address as shown on the statement of claim is outside the state, the administrator shall forward the summons to the plaintiff who, within 60 days after

issuance of the summons, shall cause it to be served on the defendant and file proof of service with the administrator. If the summons is not properly served and proof of service filed within 60 days after issuance of the summons, the action shall be dismissed without prejudice. A party who is unable to pay the fees for service of a summons may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

(4) Service by mail, whether first-class or certified, shall be effective upon mailing.

(e) **Proof of Service.** Service by first class mail or certified mail shall be proven by an affidavit of service in form substantially similar to that published by the state court administrator. Service may be alternatively proven, when made by the court administrator, by any appropriate notation in the court record of the date, time, method, and address used by the administrator to effect service.

(Amended effective January 1, 2010.)

### ***1993 Committee Comment***

*The territorial jurisdiction of conciliation court is limited to the county boundaries, and a summons cannot be issued outside the county except in certain situations, including: recovery of certain student loans by educational institutions located within the county; recovery of alleged dishonored checks issued within the county; certain claims arising out of rental property located within the county; actions against two or more defendants when one defendant resides in the county; actions against foreign corporations doing business in this state; and actions against nonresidents other than foreign corporations when the state has jurisdiction under Minnesota Statutes, section 543.19. Minnesota Statutes, section 491A.01, subdivisions 3, 6 to 10 (Supplement 1993). In situations in which the address of the defendant as shown on the statement of claim is outside the state, the summons is forwarded to the plaintiff who is then responsible for causing service of the summons on the defendant in the manner provided by law and filing proof of service with the court within 60 days of issuance of the summons. Various laws govern the service of a summons on nonresident defendants. See, e.g., Minnesota Statutes, sections 45.028 (foreign insurance entities doing business in this state); 303.13 (foreign corporations doing business in this state); 543.19 (other nonresident defendants subject to the jurisdiction of Minnesota's courts). The procedure under each of these laws is different, and it is the plaintiff's responsibility to ensure that the appropriate procedures are followed. For example, service on an unregistered foreign corporation pursuant to Minnesota Statutes, section 303.13 (1991 Supplement) can be accomplished by delivering three copies of the summons to the secretary of state and payment of a \$35 fee. The secretary of state then mails a copy to the defendant corporation and keeps a record of the mailing. [Rule 508\(d\)](#) requires that the plaintiff file an affidavit of compliance which should be accompanied by the fee receipt from the secretary of state's office or a copy of the summons bearing the date and time of filing with the secretary of state. Service on an unregistered foreign insurance entity pursuant to Minnesota Statutes, section 45.028, subdivision 2 (1990), may be accomplished by: (1) delivering a single copy of the summons to the commissioner of commerce (as of August 1, 1992, there is no filing fee); and (2) the plaintiff mailing a copy of the summons and notice of service to the foreign insurance company by certified mail; and (3)*

*filing of an affidavit of compliance with the court. Service is not effective until all steps are completed, including the filing of the affidavit of compliance, which should be accompanied by receipts or other proof of mailing and filing with the commissioner of commerce. Finally, service on other nonresidents pursuant to Minnesota Statutes, section 543.19 (1990) requires that the summons be “personally served” on the nonresident and proof of service filed with the court. Such “personal service” may only be made by a sheriff or any other person not less than 18 years of age who is not a party to the action. Reichel v. Hefner, 472 N.W.2d 346 (Minnesota Appellate 1991) (applying Rule 4.02 of the rules of civil procedure for the district courts).*

*When service on a foreign corporation has been made under Minnesota Statutes, section 303.13 through the office of the secretary of state, the defendant corporation so served shall have 30 days from the date of mailing by the secretary of state in which to answer the complaint. Thus, the conciliation court trial date must be scheduled to allow the defendant the full 30 days to appear. Similarly, when certain foreign insurance entities are served under Minnesota Statutes, section 45.028, subdivision 2, the law also provides a 30-day response period see, e.g., Minnesota Statutes, section 64B.35, subdivision 2 (fraternal benefit societies) or prohibits default judgments until the expiration of 30 days from the filing of the affidavit of compliance. Minnesota Statutes, section 60A.21, subdivision 1(4) (unauthorized foreign insurer).*

*[Rule 508\(d\)](#) recognizes that in most situations involving resident defendants, first class mail is a sufficient method of notifying the defendant of the claim. If for some reason the summons cannot be delivered by mail, the last sentence of [Rule 508\(a\)](#) recognizes that personal service of the summons pursuant to the rules of civil procedure for the district court is always an effective means of providing notice of the claim. The party filing the claim is responsible for obtaining personal service, including any costs involved. As indicated above, “personal service” may only be made by a sheriff or any other person not less than 18 years of age who is not a party to the action.*

*The provisions requiring service by certified mail were added in order to make the rules consistent with statutes. See Minnesota Statutes, section 491A.01, subdivision 3(b) (Supplement 1993). If the claim exceeds \$2,500, the plaintiff is responsible for causing service of the summons on the defendant by certified mail, and filing proof of service with the court within 60 days of issuance of the summons.*

#### **Advisory Committee Comment – 2006 Amendment**

*Rule 508(d)(4) is a new provision, intended to remove any confusion in the rule over when service by mail is deemed complete. This question is important in determining questions of timing. Making service effective upon mailing is consistent with the provisions of Minn. R. Civ. P. 5.02 and Minn. R. Civ. App. P. 125.03*

*The rule has historically required proof of service, but has not specified how service is proven. Rule 508(e) specifies that an affidavit of service should be prepared in form substantially similar to new Form 508.1 to prove service by anyone other than the court administrator. Where the rule requires the administrator to effect service by mail or certified mail, it is not necessary to require an affidavit of the administrator to prove serve, and Rule 508(e)*

*recognizes that a notation of the facts of service in the court's file will suffice to prove that service was effected.*

*Some courts follow the practice of using certified mail receipts as proof of service. In fact these receipts generally only prove receipt of the mailing, not the mailing itself. Although proof of receipt may be important if a question arises as to the effectiveness of service, it is not an adequate substitute for proof of the facts of service, including the date of mailing.*

#### **Advisory Committee Comment—2009 Amendment**

*Rules 507, 508, and 518 are amended to remove Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 from the rules and to correct the reference to the forms in the rule. This amendment will allow for the maintenance and publication of the forms by the state court administrator. The forms, together with other court forms, can be found at <http://www.mncourts.gov/>.*

*Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 should be deleted from the rules and maintained in the future on the court's website.*

### **Rule 509. Counterclaim**

**(a) Counterclaims Allowed.** The defendant may assert a counterclaim within jurisdiction of conciliation court which the defendant has against the plaintiff, whether or not arising out of the transaction or occurrence which is the subject matter of plaintiff's claim.

**(b) Assertion of Counterclaim.** To assert a counterclaim the defendant shall perform all the following not less than five days prior to the date set for trial of plaintiff's claim:

(1) file with the court administrator a counterclaim required by [Rule 507](#);

(2) pay to the court administrator the applicable fees or file with the administrator the affidavit in lieu of fees prescribed in [Rule 506](#).

**(c) Administrator's Duties.** The court administrator shall assist with the preparation of the counterclaim on request. When the counterclaim has been properly asserted, the court administrator shall note the filing of the counterclaim on the original claim, promptly mail notice of the counterclaim to plaintiff and set the counterclaim for trial on the same date as the original claim.

**(d) Late Filing.** No counterclaim shall be heard if filed less than five days before the trial date of plaintiff's claim except by permission of the judge, who has discretion to allow a filing within the five-day period. Should a continuance be requested by and granted

to plaintiff because of the late filing, the judge may require payment of costs by defendant, absolute or conditional, not to exceed \$50.

### **Rule 510. Counterclaim in Excess of Court's Jurisdiction**

(a) The court administrator shall strike plaintiff's action from the calendar if the defendant not less than five days of the date set for trial of plaintiff's claim, files with the court administrator an affidavit stating that:

(1) the defendant has a counterclaim against plaintiff arising out of the same transaction or occurrence as plaintiff's claim, the amount of which is beyond monetary jurisdiction of the conciliation court, and

(2) the defendant has commenced or will commence within 30 days an action against plaintiff in a court of competent jurisdiction based on such claim.

(b) The plaintiff's action shall be subject to reinstatement on the trial calendar at any time after 30 days and up to three years, upon the filing by plaintiff of an affidavit showing that the plaintiff has not been served with a summons by defendant. If the action is reinstated, the court administrator shall set the case for trial and mail notice of the trial date to the parties by first class mail.

(c) Absolute or conditional costs, not to exceed \$50, may be imposed against the defendant if the defendant fails to commence an action as provided in paragraph (a)(2) of this rule, and the court determines that the defendant caused the plaintiff's action to be stricken from the calendar in bad faith or solely to delay the proceedings or to harass.

### **Rule 511. Notice of Settlement**

If the parties agree on a settlement prior to trial, each party who has made a claim or counterclaim shall promptly advise the court in writing that the claim or counterclaim has been settled and that it may be dismissed.

(Added effective July 1, 1993.)

### **Rule 512. Trial**

(a) **Subpoenas.** Upon request of a party and payment of the applicable fee, the court administrator shall issue subpoenas for the attendance of witnesses and production of documentary evidence at the trial. Rule 45 of the Minnesota Rules of Civil Procedure to the extent relevant for use of subpoenas for trial applies apply to subpoenas issued under this rule. A party who is unable to pay the fees for issuance and service of a summons may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01. An attorney who has appeared in an action may, as officer of the court, issue and sign a subpoena on behalf of the court where the action is pending.

(b) **Testimony and Exhibits.** Subject to part (d) of this rule, the judge shall hear testimony of the parties, their witnesses, and shall consider exhibits offered by the parties. The party offering an exhibit shall mark the party's name on the exhibit in a manner that will not obscure the exhibit. All exhibits will be returned to the parties at the conclusion of the trial unless otherwise ordered by the judge.

(c) **Appearances.** The parties shall appear in person, unless otherwise authorized by the court, and may be represented by a lawyer admitted to practice law before the courts of this state. A lawyer representing a party in conciliation court may participate in the trial to the extent and in the manner that the judge, in the judge's discretion, deems helpful.

A corporation, partnership, limited liability company, sole proprietorship, or association may be represented in conciliation court by an officer, manager, or partner, or an agent in the case of a condominium, cooperative or townhouse association, or may appoint a natural person who is an employee of the party or a commercial property manager to appear on its behalf or settle a claim in conciliation court. In the case of an officer, employee, commercial property manager, or agent of a condominium, cooperative or townhouse association, an authorized power of attorney, corporate authorization resolution, corporate by-law or other evidence of authority acceptable to the court must be filed with the claim or presented at the trial. The authority shall remain in full force and effect only as long as the case is active in conciliation court.

“Commercial property manager” means a corporation, partnership, or limited liability company or its employees who are hired by the owner of commercial real estate to perform a broad range of administrative duties at the property including tenant relations matters, leasing, repairs, maintenance, the negotiation and resolution of tenant disputes, and related matters. In order to appear in conciliation court, a property manager's employees must possess a real estate license under Minnesota Statutes, section 82.20, and be authorized by the owner of the property to settle all disputes with tenants and others within the jurisdictional limits of conciliation court.

(d) **Evidence.** The judge shall normally receive only evidence admissible under the rules of evidence, but in the exercise of discretion and in the interests of justice, may receive otherwise inadmissible evidence.

(e) **Conciliation; Judgment.** The judge may attempt to conciliate disputes and encourage fair settlements among the parties. If at the trial the parties agree on a

settlement the judge shall order judgment in accordance with the settlement. If no agreement is reached, the judge shall hear, determine the cause, and order judgment. Written findings of fact or conclusions of law shall not be required.

**(f) Failure of Defendant to Appear.** If the defendant fails to appear at the trial, after being summoned as provided in these rules, the judge may hear the plaintiff and may:

(1) order judgment in the amount due the plaintiff, including fees, expenses and other items provided by law or by agreement, and where applicable, order return of property to the plaintiff or

(2) otherwise dispose of the matter.

**(g) Failure of Plaintiff to Appear, Defendant Present.** Should plaintiff fail to appear at the trial, but defendant appears, the judge may hear the defendant and may:

(1) order judgment of dismissal on the merits or order a dismissal without prejudice on the plaintiff's statement of claim, and where applicable, order judgment on defendant's

counterclaim in the amount due the defendant, including fees, expenses and other items provided by law or by agreement, and where applicable, order return of property to the defendant, or

(2) otherwise dispose of the matter.

**(h) Continuances.** On proper showing of good cause, a continuance may be granted by the court on request of either party. The court may require payment of costs, absolute or conditional, not to exceed \$50, as a condition of such an order. On proper showing of good cause, requests for continuance that are made at least five days prior to the trial may be granted by the court administrator. Continuances granted by the court administrator shall be limited to one continuance per party.

(Amended effective January 1, 2007.)

### ***1993 Committee Comment***

*Rule 512(a) authorizes the issuance of subpoenas to secure the attendance of witnesses and production of documentary evidence. The attendance of the parties is required by Rule 512(c).*

*The fee for issuing a subpoena is \$3. Minnesota Statutes, section 357.021, subdivision 2(3) (1990). A subpoena may be served by the sheriff, a deputy sheriff, or any other person not less*

than 18 years of age who is not a party to the action. Minnesota Rules of Civil Procedure 4.02; 45.03. The sheriff's fees and mileage reimbursement rate for service of a subpoena are set by the county board. Minnesota Statutes, section 357.09 (1990).

Witnesses are also entitled to attendance fees and travel fees, and, unless otherwise ordered by the court, a witness need not attend at the trial unless the party requesting the subpoena pays the witness one day's attendance and travel fees in advance of the trial. Minnesota Statutes, section 357.22 (1990) (\$10 per day attendance fee, \$.24 per mile mileage fee, to and from courthouse, measured from witness' residence, if within state, or from state boundary line, if residence is outside the state); Minnesota Rules of Civil Procedure 45.03.

A witness who is not a party or an employee of a party and who is required to provide testimony or documents relating to a profession, business, or trade, or relating to knowledge, information, or facts obtained as a result of such profession, business or trade (e.g., a banker witness subpoenaed to produce bank records), is entitled to reasonable compensation for the time and expense involved in preparing for and giving such testimony or producing such documents. The party requesting the subpoena must make arrangements for such compensation prior to the trial. Minnesota Rules of Civil Procedure 45.06; D. Herr, R. Haydock, 2 Minnesota Practice, Civil Rules Annotated, section 45.14 (1985). With respect to any subpoena requiring the production of documents, the court may also require the party requesting the subpoena to pay the reasonable costs of producing the documentary evidence. Minnesota Rules of Civil Procedure 45.02.

[Rule 512\(e\)](#) does not preclude a court from providing the parties with a written explanation for the court's decision. Explanations, regardless of their brevity, are strongly encouraged. Explanations provide litigants with some degree of assurance that their case received thoughtful consideration, and may help avoid unnecessary appeals. Explanations may be inserted on Form UCF-9, appended to the rules, in either the Order for Judgment section on the front of the form or in the Memorandum section on the reverse side of the court's copy of the form.

#### **Advisory Committee Comments—2007 Amendment**

[Rule 512\(a\)](#) is amended to include express provision for issuance of subpoenas by attorneys admitted to practice before the Court. This provision is adopted verbatim from the parallel provision in the civil rules, Minn. R. Civ. P. 45.01(c), as amended effective Jan. 1, 2006. Although subpoenas may be used for pretrial discovery from non-parties in district court proceedings, conciliation court practice does not allow pretrial discovery, so this use of subpoenas is similarly not authorized by this rule.

The rule is also amended to clarify the cross-references to Minn. R. Civ. P. 45, made necessary by the reorganization and renumbering of Rule 45 effective on Jan. 1, 2006. Rule 45 provides a comprehensive procedure for use of subpoenas that is helpful in conciliation court with one significant exception: because subpoenas are only available in conciliation court for use at trial, and not for pre-trial discovery, the portions of Rule 45 dealing with pre-trial discovery are not applicable in conciliation court.

### **Rule 513. Absolute or Conditional Costs; Filing of Orders**

In any case in which payment of absolute or conditional costs has been ordered as a condition of an order under any provision of these rules, the amount so ordered shall be paid to the court administrator before the order becomes effective or is filed. Conditional costs shall be held by the court administrator to be paid in accordance with the final order entered in the case; absolute costs shall be promptly transmitted by the court administrator to the other party as that party's absolute property.

### **Rule 514. Notice of Order for Judgment**

The court administrator shall promptly mail to each party a notice of the order for judgment entered by the judge. The notice shall state the last day for obtaining an order to vacate (where there has been a default) or for removing the cause to the civil division of district court under these rules. The notice shall also contain a statement that if the cause is removed to district court, the court will allow the prevailing party to recover from the aggrieved party \$50 as costs if the prevailing party on appeal is not the aggrieved party in the original action as provided in [Rule 524](#).

#### ***1993 Committee Comment***

*[Rules 515](#), [520\(a\)](#), and [521\(b\)](#) of these rules establish a uniform 20-day time period for obtaining an order to vacate or for removing the case to district court. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. *Wilkins v. City of Glencoe*, 479 N.W.2d 430 (Minnesota Appellate 1992) (construing Rule 6.05 of the Minnesota Rules of Civil Procedure). Computing the deadline can be difficult and confusing for lay persons, and [Rule 514](#) attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including [Rule 503](#) of these rules and Rule 6.05 of the Minnesota Rules of Civil Procedure.*

### **Rule 515. Entry of Judgment**

The court administrator shall promptly enter judgment as ordered by the judge. The judgment shall be dated as of the date notice is sent to the parties. The judgment so entered becomes finally effective twenty days after mailing of the notice, unless:

- (a) payment has been made in full, or
- (b) removal to district court has been perfected, or
- (c) an order vacating the prior order for judgment has been filed, or
- (d) ordered by a judge.

As authorized by law, any judgment ordered may provide for satisfaction by payment in installments in amounts and at times, as the judge determines. Should any installment not be paid when due, the entire unpaid balance of the judgment ordered, becomes immediately due and payable.

#### ***1993 Committee Comment***

*Rule 515 provides that a judgment becomes finally effective 20 days after notice of judgment is mailed to the parties, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minnesota Appellate 1992) (construing Rule 6.05 of the Minnesota Rules of Civil Procedure). Computing the effective date of the judgment can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Rule 6.05 of the Minnesota Rules of Civil Procedure. The purpose of the 20-day time period specified in Rule 515 is to permit a party to obtain an order to vacate under Rule 520(a) or effect removal of the case to district court under Rule 521(b).*

*The legislature has determined that any judgment ordered may provide for satisfaction by payment in installments in amounts and at such times, not exceeding one year for the last installment, as the judge determines to be just and reasonable. Minnesota Statutes, section 491A.02, subdivision 5 (Supplement 1993). Rule 512(e) recognizes that the one year limit on installment payments may be waived by the parties as part of a settlement.*

#### **Rule 516. Costs and Disbursements**

The order for judgment shall include the fees paid or payable by the prevailing party pursuant to [Rules 506](#) and [508\(d\)\(3\)](#) of these rules and, in the discretion of the court, may include all or part of disbursements incurred by the prevailing party which would be taxable in district court and any conditional costs previously ordered to be paid by either party.

### **Rule 517. Payment of Judgment**

A nonprevailing party must make arrangements to pay the judgment directly to the prevailing party. In the event good faith efforts to pay the judgment are not successful or the prevailing party refuses to accept tendered payment, the nonprevailing party may bring a motion to allow payment into court. Upon order of the court, the nonprevailing party may then pay all or any part of the judgment to the court administrator for benefit of the prevailing party.

The court administrator shall enter on the court's records any payment made to the administrator or to the prevailing party directly when satisfied that the direct payments have been made.

(Amended effective January 1, 2010.)

#### ***Advisory Committee Comment—2009 Amendment***

*Rule 517 is amended to modify the procedure for payment of a conciliation court judgment directly to the court administrator. As amended, the rule requires that payment be made directly by the nonprevailing party to the prevailing party, and permits payment into court only if reasonable attempts to make that payment are not successful or the prevailing party will not accept payment, in which case the nonprevailing party must bring a motion to allow payment into court.*

### **Rule 518. Docketing of Judgment in District Court; Enforcement**

(a) **Docketing.** Except as otherwise provided in [Rule 519](#) with respect to installment judgments, when a judgment has become finally effective as defined in [Rule 515](#) of these rules the judgment creditor may obtain a transcript of the judgment from the court administrator on payment of the applicable statutory fee and file it in district court. Once filed in district court the judgment becomes and is enforceable as a judgment of district court, and the judgment will be docketed by the court administrator upon presentation of an affidavit of identification. No writ of execution or garnishment summons shall be issued out of conciliation court.

**(b) Enforcement.** Unless the parties have otherwise agreed, if a conciliation court judgment has been docketed in district court and the judgment is not satisfied, the district court shall upon request of the judgment creditor order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the debtor's assets, liabilities, and personal earnings. The information shall be provided on a form substantially similar to that published by the state court administrator, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this rule may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

(Amended effective January 1, 2010.)

### ***1993 Committee Comment***

*The party in whose favor the judgment was entered (the “judgment creditor”) is responsible for enforcing the judgment if the other party (“the judgment debtor”) does not voluntarily comply with the judgment. Obtaining a transcript of the judgment and filing it in district court under [Rule 518\(a\)](#) is the first step in enforcing a judgment. A judgment requiring the payment of money (as opposed to a judgment requiring the return of property) will also be docketed by the court administrator upon transcription if the statutorily required affidavit of identification (Minnesota Statutes, section 548.09, subdivision 2 (1990)) is presented. Docketing a money judgment creates a lien against all real property of the debtor in the county in which it is docketed, except for registered land, which requires an additional filing (pursuant to Minnesota Statutes, sections 508.63 and 508A.63) to create a lien. Docketing must be accomplished before the judgment creditor is permitted to use the disclosure provisions of [Rule 518\(b\)](#), which may assist in locating assets of the judgment debtor. Additional information on enforcement of judgments against nonexempt assets of the debtor is set forth in brochures and forms available from local court administration and legal aid offices.*

*Specific fee amounts have been deleted from these rules as the fees are subject to modification by the legislature. Minnesota Statutes, section 357.021 (1990) (\$7.50 transcription fee). Whether a separate fee in addition to the transcription fee is required for filing and docketing is also subject to legislative modification. Under current law, no separate fee may be charged for filing and docketing a conciliation court judgment in the district court of the county in which the judgment was rendered.*

### ***Advisory Committee Comment—2009 Amendment***

*Rule 518 is amended to remove the automatic thirty-day stay following docketing of a judgment in district court and the commencement of discovery regarding the judgment. The thirty-day stay does not serve a useful purpose in court administration, and simply results in a thirty-day delay in resolution of these matters. Accordingly, the committee recommends that it be removed from Rule 518. This change also makes the rule consistent with statute. See Minn. Stat. § 491A.02, subd. 9.*

## **Rule 519. Docketing of Judgment Payable in Installments**

No transcript of a judgment of conciliation court payable in installments shall be issued and filed until 20 days after default in payment of an installment due.

## **Rule 520. Vacation of Judgment Order and Judgment**

(a) **Vacation of Order for Judgment Within 20 Days.** When a default judgment or judgment of dismissal on the merits has been ordered for failure to appear, the judge within 20 days after notice was mailed may vacate said judgment order ex parte and grant a new trial on a proper showing by the defaulting party of lack of notice, mistake, inadvertence or excusable neglect as the cause of that party's failure to appear. Absolute or conditional costs not to exceed \$50 to the other party may be ordered as a prerequisite to that relief.

(b) **Vacation of Judgment After 20 Days.** A default judgment may be vacated by the judge upon a proper showing by the defendant that: (1) the defendant did not receive a summons before the trial within sufficient time to permit a defense and did not receive notice of the order for default judgment within sufficient time to permit application for relief within 20 days after notice, or (2) upon other good cause shown. Application for relief pursuant to this [Rule 520\(b\)](#) shall be made within a reasonable time after the applicant learns of the existence of the judgment and shall be made by motion in accordance with the procedure governing motions in the district court, except that the motion is filed with the court administrator of conciliation court. The order vacating the judgment shall grant a new trial on the merits and may be conditioned upon payment of absolute or conditional costs not to exceed \$50.

(c) **Notice.** The court administrator shall promptly notify the parties by mail of a new trial date.

### ***1993 Committee Comment***

*[Rule 520\(a\)](#) establishes a 20-day time period for obtaining an order to vacate a default judgment order or order for judgment of dismissal. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. *Wilkins v. City of Glencoe*, 479 N.W.2d 430*

*(Minnesota Appellate 1992) (construing Rule 6.05 of the Minnesota Rules of Civil Procedure). Computing the deadline can be difficult and confusing for lay persons, and [Rule 514](#) attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including [Rule 503](#) of these rules and Rule 6.05 of the Minnesota Rules of Civil Procedure.*

*[Rule 520\(a\)](#) authorizes an informal, ex parte proceeding (involving appearance of one party only), which typically includes the presentation of an affidavit establishing lack of notice, mistake, inadvertence or excusable neglect as the cause of that party's failure to appear. In contrast, [Rule 520\(b\)](#) requires compliance with the formal requirements for making a motion in the district court. See Minnesota Rules of Civil Procedure 4.02, 5.02, 6.05; Minnesota General Rules of Practice for the District Courts 115.01, 115.02, 115.04 to 115.10. Forms and instructions are available from the conciliation court.*

### **Rule 521. Removal (Appeal) to District Court**

**(a) Trial de novo.** Any person aggrieved by an order for judgment entered in conciliation court after contested trial may remove the cause to district court for trial de novo (new trial). An "aggrieved person" may be either the judgment debtor or creditor.

**(b) Removal Procedure.** To effect removal, the aggrieved party must perform all the following within 20 days after the date the court administrator mailed to that party notice of the judgment order:

(1) Serve on the opposing party or the opposing party's lawyer a demand for removal of the cause to district court for trial de novo. Service shall be by first class mail. Service may also be by personal service in accordance with the provisions for personal service of a summons in district court. The demand for removal shall state whether trial demanded is to be by court or jury, and shall indicate the name, address, and telephone number of the aggrieved party's lawyer, if any. If the aggrieved party is a corporation, the demand for removal must be signed by the party's attorney.

(2) File with the court administrator the original demand for removal with proof of service. The aggrieved party may file with the court administrator within the 20-day period the original and copy of the demand together with an affidavit by the party or the party's lawyer showing that after due and diligent search the opposing party or opposing party's lawyer cannot be located. This affidavit shall serve in lieu of making service and filing proof of service. When an affidavit is filed, the court administrator shall mail the copy of the demand to the opposing party at the party's last known residence address.

(3) File with the court administrator an affidavit by the aggrieved party or that party's lawyer stating that the removal is made in good faith and not for purposes of delay.

(4) Pay to the court administrator as the fee for removal the amount prescribed by law for filing a civil action in district court, and if a jury trial is demanded under Rule 521(b)(1) of these rules, pay to the court administrator the amount prescribed by law for requesting a jury trial in a civil action in district court. A party who is unable to pay the fees may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

**(c) Demand for Jury Trial.** Where no jury trial is demanded on removal under Rule 521(b) by the aggrieved party, if the opposing party desires a jury trial that party shall perform all the following within 20 days after the demand for removal was served on the party or lawyer:

(1) Serve a jury trial demand by first class mail upon the aggrieved party or that party's lawyer. Service may also be by personal service in accordance with the provisions for personal service of a summons in district court.

(2) File the original jury trial demand and proof of service with the court administrator.

(3) Pay to the court administrator the amount prescribed by law for requesting a jury trial in a civil action in district court and, if the demand is the first paper filed by the party in the district court proceeding, pay to the administrator the amount prescribed by law for filing a civil action in district court. A party who is unable to pay the fees may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

**(d) Removal Perfected; Vacating Judgment; Transmitting File.** When all removal papers have been filed properly and all requisite fees paid as provided under Rule 521(b), the removal is perfected, and the court shall issue an order vacating the order for judgment in conciliation court as to the parties to the removal, and the pertinent portions of the conciliation court file of the cause shall be filed in district court.

**(e) Limited Removal.**

(1) When a motion for vacation of an order for judgment, or judgment under [Rule 520](#)(a) or (b) of these rules, is denied, the aggrieved party may demand limited removal to the district court for hearing de novo (new hearing) on the motion. Procedure for service and filing of the demand for limited removal and notice of hearing de novo, proof of service of the notice, and procedure in case of inability of the aggrieved party to make service on the opposing party or the opposing party's lawyer shall be in the same manner prescribed in part (b) of this rule, except that the deadline for effecting limited removal shall be twenty days after the date that the court administrator mails notice of the denial of the motion for vacation of the order for judgment or judgment. The fee payable by the aggrieved party to the court administrator for limited removal shall be the same as the filing fee prescribed by law for filing of a civil action in district court. The court administrator shall then place the matter on the special term calendar for the date specified in the notice. At the hearing in district court, either party may be represented by a lawyer.

(2) A judge other than the conciliation court judge who denied the motion, shall hear the motion de novo (anew) and may (A) deny the motion or (B) grant the motion. In determining the motion the judge shall consider the entire file plus any affidavits submitted by either party or their lawyers.

(3) The court administrator shall send by mail a copy of the order made in district court after de novo hearing to both parties and the venue shall be transferred back to conciliation court.

(Amended effective January 1, 2005.)

**Cross Reference:** Minn. R. Civ. P. 4.02, 4.06, 5.02, 6.01, 6.02, and 6.05.

### ***1993 Committee Comment***

*[Rule 521\(b\)](#) establishes a 20-day time period for removing the case to district court. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. *Wilkins v. City of Glencoe*, 479 N.W.2d 430 (Minnesota Appellate 1992) (construing Rule 6.05 of the Minnesota Rules of Civil Procedure). Computing the deadline can be difficult and confusing for lay persons, and [Rule 514](#) attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including [Rule 503](#) of these rules and Rule 6.05 of the Minnesota Rules of Civil Procedure.*

*In district court, personal service may only be made by a sheriff or any other person not less than 18 years of age who is not a party to the action. *Reichel v. Hefner*, 472 N.W.2d 346 (Minnesota Appellate 1991). This applies to personal service under this [Rule 521](#). Service may not be made on Sunday, a legal holiday, or election day. Minnesota Statutes, sections 624.04; 645.44, subdivision 5 (1990); Minnesota Constitution article VII, section 4.*

### ***Advisory Committee Comment-2000 Amendment***

*[Rule 521\(e\)\(1\)](#), as amended in 1997, allows limited removal to district court from a denial of a motion to vacate the order for judgment or judgment made pursuant to [Rule 520\(a\)](#) or (b). To obtain limited removal under [Rule 521\(e\)\(1\)](#), a party must follow the same procedural steps for obtaining removal under [Rule 521\(b\)](#), except that the event that triggers the twenty-day time*

*period for effecting removal is the date that the court administrator mails the notice of denial of the motion to vacate the order for judgment or judgment. The law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992).*

*Under [Rule 521\(b\)\(1\)](#) as amended in 2000, if the party seeking to remove (appeal) the case to district court is a corporation, the demand for removal must be signed by an attorney authorized to practice law in the district court. This requirement simply restates a requirement recognized by court decision. See *World Championship Fighting, Inc. v. Janos*, 609 N.W.2d 263 (Minn. App. 2000), rev. denied (Minn. July 25, 2000). A corporation must be represented by a licensed attorney in district court regardless of the fact that the action originated in conciliation court. See *Nicollet Restoration, Inc. v. Turnham*, 486 N.W.2d 753 (Minn. 1992).*

Advisory Committee Comment—2004 Amendments

*[Rule 521\(d\)](#) is amended in 2004 to clarify its application in a situation where one of several co-parties (either co-plaintiffs or co-defendants) removes (appeals) a conciliation court decision while another co-party does not take that action. The committee believes that the conciliation court judgment should become final against any party who does not remove the case and in favor of any party against whom removal is not sought.*

*[Rule 521](#) establishes an approved and effective means of service by mail to accomplish removal of a conciliation court case to district court for trial *de novo*. By decision in 2004, the Minnesota Supreme Court held that a party may also rely on the different means of service by mail contained in Minn. R. Civ. P. 4.05. See *Roehrdanz v. Brill*, 682 N.W.2d 626 (Minn. 2004). Because service under that rule may require a signed receipt from the party being served, such service may not be effective.*

## **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.*

### **Rule 523. Procedure in District Court**

Proceedings in the district court shall, except as otherwise expressly provided in these rules, be in accordance with the Minnesota Rules of Civil Procedure and the General Rules of Practice for the District Courts. The judge who presided in conciliation court shall not preside in district court.

### ***1993 Committee Comment***

*The Minnesota Supreme Court has determined that a corporation must be represented by a licensed attorney when appearing in district court regardless of the fact that the action originated in conciliation court. Nicollet Restoration, Inc. v. Turnham, 486 N.W.2d 753 (Minnesota 1992).*

### **Rule 524. Mandatory Costs in District Court**

(a) For the purposes of this rule, “removing party” means the first party who serves or files a demand for removal. “Opposing party” means any party as to whom the removing party seeks a reversal in whole or in part.

(b) If the removing party prevails in district court, the removing party may recover costs from the opposing party as though the action were commenced in district court. If the removing party does not prevail, the court shall award the opposing party an additional \$50 as costs. If the removing party is eligible to proceed under Minnesota Statutes, section

563.01, the \$50 costs may be waived if the court determines that a hardship exists and that the case was removed in good faith.

(c) For purposes of this rule, the removing party prevails in district court if:

(1) the removing party recovers at least \$500 or 50 percent of the amount or value of property that the removing party requested on removal, whichever is less, when the removing party was denied any recovery in conciliation court;

(2) the opposing party does not recover any amount or any property from the removing party in district court when the opposing party recovered some amount or some property in conciliation court;

(3) the removing party recovers an amount or value of property in district court that exceeds the amount or value of property that the removing party recovered in conciliation court by at least \$500 or 50 percent, whichever is less; or

(4) the amount or value of property that the opposing party recovers from the removing party in district court is reduced from the amount or value of property that the opposing party recovered in conciliation court by at least \$500 or 50 percent, whichever is less.

(d) Costs or disbursements in conciliation or district court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this rule.

### ***1993 Committee Comment***

*Rule 524 simply repeats, for the benefit of litigants, the requirements set forth by the legislature. Minnesota Statutes, section 491A.02, subdivision 7 (Supplement 1993). Statutory costs normally available in district court pursuant to Minnesota Statutes, section 549.02 do not apply to conciliation court matters that have been removed to district court. Minnesota Statutes, section 549.02 (1992).*

### **Rule 525. Appeal From District Court**

The judgment of the district court on removal from conciliation court in any cause may be appealed to the Court of Appeals as in other civil cases.

### ***1993 Committee Comment***

*An appeal may not be taken directly from conciliation court to the court of appeals. McConnell v. Beseres, 358 N.W.2d 113 (1984). Removal under [Rule 521\(b\)](#) or limited removal under [Rule 521\(c\)](#), and a ruling on the removal by the district court, are jurisdictional prerequisites for an appeal to the court of appeals from an action initiated in conciliation court.*

## **APPENDIX OF FORMS**

Effective January 1, 2010, the following forms are deleted from these Rules and are maintained by State Court Administration on the judicial branch website at <http://www.mncourts.gov/>:

- UCF-8            Statement of Claim and Summons
- UCF-9            Judgment and Notice of Judgment
- UCF-10          Defendant's Counterclaim and Notice of Hearing
- UCF-22          Financial Disclosure Form
- UCF-508.1      Affidavit of Service