

FEB - 4 2013

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STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8051

ADM09-8009

ADM04-8001

ORDER ADOPTING AMENDMENTS TO THE
RULES OF CIVIL PROCEDURE AND GENERAL
RULES OF PRACTICE RELATING TO THE
CIVIL JUSTICE REFORM TASK FORCE

The Civil Justice Reform Task Force recommended certain amendments to the Rules of Civil Procedure and the General Rules of Practice for the District Courts aimed at facilitating more cost effective and efficient civil case processing. The Court has reviewed the proposals, received public comments, and is advised in the premises.

IT IS HEREBY ORDERED THAT:

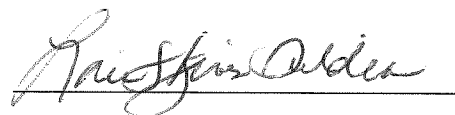
1. The attached amendments to the Rules of Civil Procedure and the General Rules of Practice for the District Courts, and the same are, prescribed and promulgated to be effective July 1, 2013.

2. These amendments apply to all actions or proceedings pending on or commenced on or after the effective date provided that:

- a. No action shall be involuntarily dismissed pursuant to Minn. R. Civ. P. 5.04 until one year after the effective date; and
- b. Amendments to Minn. R. Civ. P. 26 apply only to actions commenced on or after the effective date provided that the court may in any case direct the parties to comply with all or part of the rule as part of a pretrial order.

Dated: February 4, 2013

BY THE COURT:



Lorie S. Gildea
Chief Justice

1 MINNESOTA RULES OF CIVIL PROCEDURE

2 [NOTE: *In the following amendments, deletions are indicated by a line drawn through the words*
3 *and additions are indicated by a line drawn under the words.*]
4

5 RULE 1. SCOPE OF RULES

6 These rules govern the procedure in the district courts of the State of Minnesota in all
7 suits of a civil nature, with the exceptions stated in Rule 81. They shall be construed and
8 administered to secure the just, speedy, and inexpensive determination of every action.

9 It is the responsibility of the court and the parties to examine each civil action to assure
10 that the process and the costs are proportionate to the amount in controversy and the complexity
11 and importance of the issues. The factors to be considered by the court in making a
12 proportionality assessment include, without limitation: needs of the case, amount in controversy,
13 parties' resources, and complexity and importance of the issues at stake in the litigation.

14 * * *

15
16 RULE 3. COMMENCEMENT OF THE ACTION; SERVICE OF THE COMPLAINT;
17 FILING OF THE ACTION

18 Rule 3.01 Commencement of the Action

19 A civil action is commenced against each defendant:
20

21 (a) when the summons is served upon that defendant, or
22

23 (b) at the date of acknowledgement of service if service is made by mail, or
24

25 (c) when the summons is delivered to the sheriff in the county where the
26 defendant resides for service; but such delivery shall be ineffectual unless within 60 days
27 thereafter the summons is actually served on that defendant or the first publication
28 thereof is made.

29
30 Filing requirements are set forth in Rule 5.04, which requires filing with the court within
31 one year after commencement for non-family cases.
32

33 * * *

35 **RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS**

36 * * *

37 **Rule 5.04 Filing; Certificate of Service**

38 Any action that is not filed with the court within one year of commencement against any
39 party is deemed dismissed with prejudice against all parties unless the parties within that year
40 sign a stipulation to extend the filing period. This paragraph does not apply to family cases
41 governed by rules 301 to 378 of the General Rules of Practice for the District Courts.

42 All papers after the complaint required to be served upon a party, together with a
43 certificate of service, shall be filed with the court within a reasonable time after service, except
44 disclosures under Rule 26, expert disclosures and reports, depositions upon oral examination and
45 interrogatories, requests for documents, requests for admission, and answers and responses
46 thereto shall not be filed unless upon order of the court or for use in the proceeding.

47 The administrator shall not refuse to accept for filing any paper presented for that purpose
48 solely because it is not presented in proper form as required by these rules or any local rules or
49 practices.

50 * * *

51
52 **RULE 26. DUTY TO DISCLOSE; GENERAL PROVISIONS GOVERNING**
53 **DISCOVERY**

54 **26.01 ~~Discovery Methods~~Required Disclosures**

55 ~~Parties may obtain discovery by one or more of the following methods: depositions by~~
56 ~~oral examination or written questions; written interrogatories; production of documents or things~~
57 ~~or permission to enter upon land or other property; for inspection and other purposes; physical~~
58 ~~(including blood) and mental examinations; and requests for admission.~~

59 **(a) Initial Disclosure.**

60 (1) In General. Except as exempted by Rule 26.01(a)(2) or as otherwise
61 stipulated or ordered by the court, a party must, without awaiting a discovery request,
62 provide to the other parties:

63 (A) the name and, if known, the address and telephone number of each
64 individual likely to have discoverable information—along with the subjects of
65 that information—that the disclosing party may use to support its claims or
66 defenses, unless the use would be solely for impeachment;

67 (B) a copy—or a description by category and location—of all documents,
68 electronically stored information, and tangible things that the disclosing party has

69 in its possession, custody, or control and may use to support its claims or
70 defenses, unless the use would be solely for impeachment;

71 (C) a computation of each category of damages claimed by the disclosing
72 party—who must also make available for inspection and copying as under Rule
73 34 the documents or other evidentiary material, unless privileged or protected
74 from disclosure, on which each computation is based, including materials bearing
75 on the nature and extent of injuries suffered; and

76 (D) for inspection and copying as under Rule 34, any insurance agreement
77 under which an insurance business may be liable to satisfy all or part of a possible
78 judgment in the action or to indemnify or reimburse for payments made to satisfy
79 the judgment.

80 (2) Proceedings Exempt from Initial Disclosure. Unless otherwise ordered by the
81 court in an action, the following proceedings are exempt from disclosures under Rule
82 26.01(a), (b), and (c):

83 (A) an action for review on an administrative record;

84 (B) a forfeiture action in rem arising from a state statute;

85 (C) a petition for habeas corpus or any other proceeding to challenge a
86 criminal conviction or sentence;

87 (D) an action brought without an attorney by a person in the custody of the
88 United States, a state, or a state subdivision;

89 (E) an action to enforce or quash an administrative summons or subpoena;

90 (F) a proceeding ancillary to a proceeding in another court;

91 (G) an action to enforce an arbitration award;

92 (H) family court actions under Gen. R. Prac. 301 - 378;

93 (I) Torrens actions;

94 (J) conciliation court appeals;

95 (K) forfeitures;

96 (L) removals from housing court to district court;

97 (M) harassment proceedings;

98 (N) name change proceedings;

99 (O) default judgments;

100 (P) actions to either docket a foreign judgment or re-docket a judgment
101 within the district;

102 (Q) appointment of trustee;

103 (R) condemnation appeal;

104 (S) confession of judgment;

105 (T) implied consent;

106 (U) restitution judgment; and

107 (V) tax court filings.

108 (3) Time for Initial Disclosures—In General. A party must make the initial
109 disclosures at or within 60 days after the original due date when an answer is required,
110 unless a different time is set by stipulation or court order, or unless an objection is made
111 in a proposed discovery plan submitted as part of a civil cover sheet required under Rule
112 104 of the General Rules of Practice for the District Courts. In ruling on the objection,
113 the court must determine what disclosures, if any, are to be made and must set the time
114 for disclosure. In medical malpractice and other professional malpractice cases in which
115 an expert affidavit is required, a party must make initial disclosures within sixty (60) days
116 of the service of the expert affidavit.

117 (4) Time for Initial Disclosures—For Parties Served or Joined Later. A party that
118 is first served or otherwise joined after the initial disclosures are due under Rule
119 26.01(a)(3) must make the initial disclosures within 30 days after being served or joined,
120 unless a different time is set by stipulation or court order.

121 (5) Basis for Initial Disclosure; Unacceptable Excuses. A party must make its
122 initial disclosures based on the information then reasonably available to it. A party is not
123 excused from making its disclosures because it has not fully investigated the case or
124 because it challenges the sufficiency of another party's disclosures or because another
125 party has not made its disclosures.

126 **(b) Disclosure of Expert Testimony.**

127 (1) In General. In addition to the disclosures required by Rule 26.01(a), a party
128 must disclose to the other parties the identity of any witness it may use at trial to present
129 evidence under Minnesota Rule of Evidence 702, 703, or 705.

130 (2) Witnesses Who Must Provide a Written Report. Unless otherwise stipulated
131 or ordered by the court, this disclosure must be accompanied by a written report—
132 prepared and signed by the witness—if the witness is one retained or specially employed
133 to provide expert testimony in the case or one whose duties as the party's employee
134 regularly involve giving expert testimony. The report must contain:

135 (A) a complete statement of all opinions the witness will express and the
136 basis and reasons for them;

137 (B) the facts or data considered by the witness in forming them;

138 (C) any exhibits that will be used to summarize or support them;

139 (D) the witness's qualifications, including a list of all publications
140 authored in the previous 10 years;

141 (E) a list of all other cases in which, during the previous 4 years, the
142 witness testified as an expert at trial or by deposition; and

143 (F) a statement of the compensation to be paid for the study and testimony
144 in the case.

145 (3) Witnesses Who Do Not Provide a Written Report. Unless otherwise stipulated
146 or ordered by the court, if the witness is not required to provide a written report, this
147 disclosure must state:

148 (A) the subject matter on which the witness is expected to present
149 evidence under Minnesota Rule of Evidence 702, 703, or 705; and

150 (B) a summary of the facts and opinions to which the witness is expected
151 to testify.

152 (4) Time to Disclose Expert Testimony. A party must make these disclosures at
153 the times and in the sequence that the court orders. Absent a stipulation or a court order,
154 the disclosures must be made:

155 (A) at least 90 days before the date set for trial or for the case to be ready
156 for trial; or

157 (B) if the evidence is intended solely to contradict or rebut evidence on the
158 same subject matter identified by another party under Rule 26.01(b)(2) or (3),
159 within 30 days after the other party's disclosure.

160 (5) Supplementing the Disclosure. The parties must supplement these disclosures
161 when required under Rule 26.05.

162 **(c) Pretrial Disclosures.**

163 (1) In General. In addition to the disclosures required by Rule 26.01(a) and (b), a
164 party must provide to the other parties the following information about the evidence that
165 it may present at trial other than solely for impeachment:

166 (A) the name and, if not previously provided, the address and telephone
167 number of each witness—separately identifying those the party expects to present
168 and those it may call if the need arises;

169 (B) the designation of those witnesses whose testimony the party expects
170 to present by deposition and, if not taken stenographically, a transcript of the
171 pertinent parts of the deposition; and

172 (C) an identification of each document or other exhibit, including
173 summaries of other evidence—separately identifying those items the party
174 expects to offer and those it may offer if the need arises.

175 (2) Time for Pretrial Disclosures; Objections. Unless the court orders otherwise,
176 these disclosures must be made at least 30 days before trial. Within 14 days after they are
177 made, unless the court sets a different time, a party may serve and promptly file a list of
178 the following objections: any objections to the use under Rule 32.01 of a deposition
179 designated by another party under Rule 26.01(c)(1)(B); and any objection, together with
180 the grounds for it, that may be made to the admissibility of materials identified under
181 Rule 26.01(c)(1)(C). An objection not so made—except for one under Minnesota Rule of
182 Evidence 402 or 403—is waived unless excused by the court for good cause.

183 (d) Form of Disclosures. Unless the court orders otherwise, all disclosures under Rule
184 26.01 must be in writing, signed, and served.

185 **26.02 Discovery Methods, Scope and Limits**

186 Unless otherwise limited by order of the court in accordance with these rules, the
187 methods and scope of discovery are as follows:
188

189 (a) Methods. Parties may obtain discovery by one or more of the following methods:
190 depositions by oral examination or written questions; written interrogatories; production of
191 documents or things or permission to enter upon land or other property; for inspection and other
192 purposes; physical (including blood) and mental examinations; and requests for admission.
193

194 (b) In-~~General~~ Scope and Limits. Discovery must be limited to matters that would
195 enable a party to prove or disprove a claim or defense or to impeach a witness and must comport
196 with the factors of proportionality, including without limitation, the burden or expense of the
197 proposed discovery weighed against its likely benefit, considering the needs of the case, the
198 amount in controversy, the parties' resources, the importance of the issues at stake in the action,
199 and the importance of the discovery in resolving the issues. Subject to these limitations, Pparties
200 may obtain discovery regarding any matter, not privileged, that is relevant to a claim or defense
201 of any party, including the existence, description, nature, custody, condition and location of any
202 books, documents, or other tangible things and the identity and location of persons having
203 knowledge of any discoverable matter. Upon a showing of For-good cause and proportionality,
204 the court may order discovery of any matter relevant to the subject matter involved in the action.
205 Relevant information sought need not be admissible at the trial if the discovery appears
206 reasonably calculated to lead to the discovery of admissible evidence.

207
208 **(b) Limitations.**
209

210 (1) Authority to Limit Frequency and Extent. The court may establish or alter the
211 limits on the number of depositions and interrogatories and may also limit the length of
212 depositions under Rule 30 and the number of requests under Rule 36. The court may act
213 upon its own initiative after reasonable notice or pursuant to a motion under Rule 26.03.
214

215 (2) Limits on Electronically Stored Evidence for Undue Burden or Cost. A party
216 need not provide discovery of electronically stored information from sources that the
217 party identifies as not reasonably accessible because of undue burden or cost. On motion
218 to compel discovery or for a protective order, the party from whom discovery is sought
219 must show that the information is not reasonably accessible because of undue burden or
220 cost. If that showing is made, the court may nonetheless order discovery from such
221 sources if the requesting party shows good cause and proportionality, considering the
222 limitations of Rule 26.02(b)(3). The court may specify conditions for the discovery.
223

224 (3) Limits Required When Cumulative; Duplicative; More Convenient
225 Alternative; and Ample Prior Opportunity. The frequency or extent of use of the
226 discovery methods otherwise permitted under these rules shall be limited by the court if it
227 determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is
228 obtainable from some other source that is more convenient, less burdensome, or less
229 expensive; or (ii) the party seeking discovery has had ample opportunity by discovery in
230 the action to obtain the information sought; ~~or (iii) the burden or expense of the proposed~~
231 ~~discovery outweighs its likely benefit, taking into account the needs of the case, the~~
232 ~~amount in controversy, the parties' resources, the importance of the issues at stake in the~~
233 ~~litigation, and the importance of the proposed discovery in resolving the issues.~~ The
234 court may act upon its own initiative after reasonable notice or pursuant to a motion
235 under Rule 26.03.
236

237 (c) **Insurance Agreements.** In any action in which there is an insurance policy that may
238 afford coverage, any party may require any other party to disclose the coverage and limits of
239 such insurance and the amounts paid and payable thereunder and, pursuant to Rule 34, may
240 obtain production of the insurance policy; provided, however, that this provision will not permit
241 such disclosed information to be introduced into evidence unless admissible on other grounds.
242

243 (d) **Trial Preparation: Materials.** Subject to the provisions of Rule 26.02(e) a party
244 may obtain discovery of documents and tangible things otherwise discoverable pursuant to Rule
245 26.02(b) and prepared in anticipation of litigation or for trial by or for another party or by or for
246 that other party's representative (including the other party's attorney, consultant, surety,
247 indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has
248 substantial need of the materials in the preparation of the party's case and that the party is unable
249 without undue hardship to obtain the substantial equivalent of the materials by other means. In
250 ordering discovery of such materials when the required showing has been made, the court shall
251 protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of
252 an attorney or other representative of a party concerning the litigation.

253
254 A party may obtain without the required showing a statement concerning the action or its
255 subject matter previously made by that party. Upon request, a party or other person may obtain
256 without the required showing a statement concerning the action or its subject matter previously
257 made by that person who is not a party. If the request is refused, the person may move for a
258 court order. The provisions of Rule 37.01(d) apply to the award of expenses incurred in relation
259 to the motion. For purposes of this paragraph, a statement previously made is (1) a written
260 statement signed or otherwise adopted or approved by the person making it, or (2) a
261 stenographic, mechanical, electrical, or other recording, or a transcription thereof, that is a
262 substantially verbatim recital of an oral statement by the person making it and
263 contemporaneously recorded.

264
265 **(e) Trial Preparation: Experts.** Discovery of facts known and opinions held by
266 experts, otherwise discoverable pursuant to Rule 26.02(b) and acquired or developed in
267 anticipation of litigation or for trial, may be obtained only as follows:

268
269 (1)(A) A party may through interrogatories require any other party to identify
270 each person whom the other party expects to call as an expert witness at trial, to state the
271 subject matter on which the expert is expected to testify, and to state the substance of the
272 facts and opinions to which the expert is expected to testify and a summary of the
273 grounds for each opinion. (B) Upon motion, the court may order further discovery by
274 other means, subject to such restrictions as to scope and such provisions, pursuant to Rule
275 26.02 (e)(3), concerning fees and expenses, as the court may deem appropriate.

276
277 (2) A party may discover facts known or opinions held by an expert who has
278 been retained or specially employed by another party in anticipation of litigation or
279 preparation for trial and who is not expected to be called as a witness at trial, only as
280 provided in Rule 35.02 or upon a showing of exceptional circumstances under which it is
281 impracticable for the party seeking discovery to obtain facts or opinions on the same
282 subject by other means.

283
284 (3) Unless manifest injustice would result, (A) the court shall require the party
285 seeking discovery to pay the expert a reasonable fee for time spent in responding to
286 discovery pursuant to Rules 26.02(e)(1)(B) and 26.02(e)(2); and (B) with respect to
287 discovery obtained pursuant to Rule 26.02(e)(1)(B), the court may require, and with
288 respect to discovery obtained pursuant to Rule 26.02(e)(2) the court shall require, the
289 party seeking discovery to pay the other party a fair portion of the fees and expenses
290 reasonably incurred by the latter party in obtaining facts and opinions from the expert.

291
292 **(f) Claims of Privilege or Protection of Trial Preparation Materials.**

293
294 (1) When a party withholds information otherwise discoverable under these rules
295 by claiming that it is privileged or subject to protection as trial preparation material, the
296 party shall make the claim expressly and shall describe the nature of the documents,
297 communications, or things not produced or disclosed in a manner that, without revealing

information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

(2) If information is produced in discovery that is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The producing party must preserve the information until the claim is resolved.

* * *

26.06 Discovery Conference

(a) Conference Timing. Except in a proceeding exempted from initial disclosure under Rule 26.01(a)(2) or when the court orders otherwise, the parties must confer as soon as practicable—and in any event within 30 days from the initial due date for an answer.

(b) Conference Content; Parties' Responsibilities. In conferring, the parties must consider the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case; make or arrange for the disclosures required by Rule 26.01(a), (b); discuss any issues about preserving discoverable information; and develop a proposed discovery plan. The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference, and for attempting in good faith to agree on the proposed discovery plan. A written report outlining the discovery plan must be filed with the court within 14 days after the conference or at the time the action is filed, whichever is later. The court may order the parties or attorneys to attend the conference in person.

(c) Discovery Plan. A discovery plan must state the parties' views and proposals on:

(1) what changes should be made in the timing, form, or requirement for disclosures under Rule 26.01, including a statement of when initial disclosures were made or will be made;

(2) the subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues;

(3) any issues about disclosure or discovery of electronically stored information, including the form or forms in which it should be produced;

342 (4) any issues about claims of privilege or of protection as trial-preparation
343 materials, including—if the parties agree on a procedure to assert these claims after
344 production—whether to ask the court to include their agreement in an order;
345

346 (5) what changes should be made in the limitations on discovery imposed under
347 these rules or by local rule, and what other limitations should be imposed; and
348

349 (6) any other orders that the court should issue under Rule 26.03 or under Rule
350 16.02 and .03.
351

352 **(d) Conference with the Court.** At any time after service of the summons, the court
353 may direct the attorneys for the parties to appear before it for a conference on the subject of
354 discovery. The court shall do so upon motion by the attorney for any party if the motion
355 includes:
356

357 (a~~1~~) A statement of the issues as they then appear;
358

359 (b~~2~~) A proposed plan and schedule of discovery;
360

361 (c~~3~~) Any issues relating to disclosure or discovery of electronically stored
362 information, including the form or forms in which it should be produced;
363

364 (d~~4~~) Any issues relating to claims of privilege or of protection as trial-preparation
365 material, including—if the parties agree on a procedure to assert such claims after
366 production—whether to ask the court to include their agreement in an order;
367

368 (e~~5~~) Any limitations proposed to be placed on discovery;
369

370 (f~~6~~) Any other proposed orders with respect to discovery; and
371

372 (g~~7~~) A statement showing that the attorney making the motion has made a
373 reasonable effort to reach agreement with opposing attorneys on the matter set forth in
374 the motion. All parties and attorneys are under a duty to participate in good faith in the
375 framing of any proposed discovery plan.
376

377 Notice of the motion shall be served on all parties. Objections or additions to matters set
378 forth in the motion shall be served not later than 10 days after the service of the motion.
379

380 Following the discovery conference, the court shall enter an order tentatively identifying
381 the issues for discovery purposes, establishing a plan and schedule for discovery, setting
382 limitations on discovery, if any, and determining such other matters, including the allocation of
383 expenses, as are necessary for the proper management of discovery in the action. An order may
384 be altered or amended whenever justice so requires.
385

Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the court may combine the discovery conference with a pretrial conference authorized by Rule 16.

* * *

Rule 37. Failure to Make ~~Discovery~~ Disclosures or to Cooperate in Discovery: Sanctions

37.01 Motion for Order Compelling Disclosure or Discovery

(a) Appropriate Court. An application for an order to a party shall be made to the court in which the action is pending. An application for an order to a person who is not a party shall be made to the court in the county where the discovery is being, or is to be, taken.

(b) Specific Motions.

(1) To Compel Disclosure. If a party fails to make a disclosure required by Rule 26.01, any other party may move to compel disclosure and for appropriate sanctions.

(2) To Compel a Discovery Response. A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if:

(A) If a deponent fails to answer a question propounded or submitted under Rules 30 or 31;

(B) ~~or~~ if a corporation or other entity fails to make a designation under Rule 30.02(f) or 31.01(c); ~~or~~

(C) a party fails to answer an interrogatory submitted under Rule 33; or

(D) if a party, in response to a request for inspection submitted under Rule 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested;

~~the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request.~~

The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before applying for an order.

(c) **Evasive or Incomplete Answer, or Response.** For purposes of this subdivision an evasive or incomplete disclosure, answer, or response is to be treated as a failure to disclose, answer, or respond.

* * *

37.03 ~~Expenses on Failure to~~ Disclose, to Supplement an Earlier Response, or to Admit

(a) Failure to Disclose or Supplement. If a party fails to provide information or identify a witness as required by Rule 26.01 or .05, the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the court, on motion and after giving an opportunity to be heard:

(1) may order payment of the reasonable expenses, including attorney's fees, caused by the failure;

(2) may inform the jury of the party's failure; and

(3) may impose other appropriate sanctions, including any of the orders listed in Rule 37.02.

(b) Failure to Admit. If a party fails to admit the genuineness of any documents or the truth of any matter as requested pursuant to Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of any such matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney fees. The court shall make the order unless it finds that (1) the request was held objectionable pursuant to Rule 36.01, or (2) the admission sought was of no substantial importance, or (3) the party failing to admit had reasonable ground to believe that the party might prevail on the matter, or (4) there was other good reason for the failure to admit.

* * *

37.06 Failure to Participate in Framing a Discovery Plan.

If a party or its attorney fails to participate in good faith in developing and submitting a proposed discovery plan as required by Rule 26.06, the court may, after giving an opportunity to be heard, require that party or attorney to pay to any other party the reasonable expenses, including attorney's fees, caused by the failure.

472 MINNESOTA GENERAL RULES OF PRACTICE

473 RULE 8. INTERPRETERS

474 * * *

475 8.13 Requirement for Notice of Anticipated Need for Interpreter

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

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

483 * * *

484 RULE 104. CIVIL COVER SHEET AND CERTIFICATE OF REPRESENTATION AND
485 PARTIES

486 Except as otherwise provided in these rules for specific types of cases and in cases where
487 the action is commenced by filing by operation of statute, a party filing a civil case shall, at the
488 time of filing, notify the court administrator in writing of:

489 (a) If the case is a family case or a civil case listed in Rule 111.01 of this rule, the
490 name, postal address, e-mail address, and telephone number of all counsel and unrepresented
491 parties, if known, in a Certificate of Representation and Parties (see Form 404 CIV102
492 promulgated by the state court administrator and published on the website
493 www.mncourts.gov~~appended to these rules~~) or

494
495 (b) If the case is a non-family civil case other than those listed in Rule 111.01, basic
496 information about the case in a Civil Cover Sheet (see Form CIV117 promulgated by the state
497 court administrator and published on the website www.mncourts.gov) which shall also include
498 the information required in part (a) of this rule. Any other party to the action may, with ten days
499 of service of the filing party's civil cover sheet, file a supplemental civil cover sheet to provide
500 additional information about the case.

501 If that information is not then known to the filing party, it shall be provided to the court
502 administrator in writing by the filing party within seven days of learning it. Any party
503 impleading additional parties shall provide the same information to the court administrator. The
504 court administrator shall, upon receipt of the completed certificate, notify all parties or their
505 lawyers, if represented by counsel, of the date of filing the action and the file number assigned.

506 * * *

507 **Rule 111.02 The Party's Scheduling Input Informational Statement**

508 The parties may submit scheduling information to the court as part of the civil cover
509 ~~sheet as provided in Rule 104 of these rules. Within 60 days after an action has been filed, each~~
510 ~~party shall submit , on a form to be available from the court (see Form 111.02 appended to these~~
511 ~~rules), the information needed by the court to manage and schedule the case. The information~~
512 ~~provided shall include:~~

- 513 ~~———— (a) ——— The status of service of the action;~~
- 514 ~~———— (b) ——— Whether the statement is jointly prepared;~~
- 515 ~~———— (c) ——— Description of case;~~
- 516 ~~———— (d) ——— Whether a jury trial is requested or waived;~~
- 517 ~~———— (e) ——— Discovery contemplated and estimated completion date;~~
- 518 ~~———— (f) ——— Whether assignment to an expedited, standard, or complex track is~~
519 ~~requested;~~
- 520 ~~———— (g) ——— The estimated trial time;~~
- 521 ~~———— (h) ——— Any proposals for adding additional parties;~~
- 522 ~~———— (i) ——— Other pertinent or unusual information that may affect the scheduling or~~
523 ~~completion of pretrial proceedings;~~
- 524 ~~———— (j) ——— Recommended alternative dispute resolution process, the timing of the~~
525 ~~process, the identity of the neutral selected by the parties or, if the neutral has not yet been~~
526 ~~selected, the deadline for selection of the neutral. If ADR is believed to be inappropriate, a~~
527 ~~description of the reasons supporting this conclusion;~~
- 528 ~~———— (k) ——— A proposal for establishing any of the deadlines or dates to be included in a~~
529 ~~scheduling order pursuant to Minn. Gen. R. Prac. 111.03; and~~
- 530 ~~———— (l) ——— Identification of interpreter services (specifying language and, if known,~~
531 ~~particular dialect) any party anticipates will be required for any witness or party.~~

532 **Rule 111.03. Scheduling Order**

533 (a) **When issued.** No sooner than the due date of the last civil cover
534 sheet under Rule 104, 60 days and no longer than 90 days after an action has been filed,
535 the court shall enter its scheduling order. The court may issue the order after either a
536 telephone or in-court conference, or without a conference or hearing if none is needed.

537 * * *

538 **RULE 113. ASSIGNMENT OF CASE(S) TO SINGLE JUDGE**

539 **113.01 Request for Assignment of a Single Case to a Single Judge**

540 (a) In any case that the court or parties believe is likely to be complex, or where other
541 reasons of efficiency or the interests of justice dictate, the chief judge of the district or the chief
542 judge's designee may order that all pretrial and trial proceedings shall be heard before a single
543 judge. The court may enter such an order at any time on its own initiative, in response to a
544 suggestion in a party's civil cover sheet ~~informational statement~~ filed under Rule 104 ~~111~~, or on the
545 motion of any party, and shall enter such an order when the requirements of Rule 113.01(b) have
546 been met. The motion shall comply with these rules and shall be supported by affidavit(s). In any
547 case assigned to a single judge pursuant to this Rule that judge shall actively use enhanced judicial
548 management techniques, including, but not limited to, the setting of a firm trial date, establishment
549 of a discovery cut off date, and periodic case conferences.

550 * * *

551 **RULE 114. ALTERNATIVE DISPUTE RESOLUTION**

552 * * *

553 **Rule 114.02 Definitions**

554 The following terms shall have the meanings set forth in this rule in construing these
555 rules and applying them to court-affiliated ADR programs.

556 **(a) ADR Processes.**

557 * * *

558 (10) *Other.* Parties may by agreement create an ADR process. They shall
559 explain their process in the civil cover sheet ~~Informational Statement~~.

560 * * *

561 **114.04 Selection of ADR Process**

562 **(a) Conference.** After service of a complaint or petition, the parties shall promptly
563 confer regarding case management issues, including the selection and timing of the ADR
564 process. Following this conference ADR information shall be included in the civil cover sheet
565 required by Rule 104 and in the initial case management ~~informational statement~~ required by
566 Rule ~~111.02 and~~ 304.02.

In family law matters, the parties need not meet and confer where one of the parties claims to be the victim of domestic abuse by the other party or where the court determines there is probable cause that one of the parties or a child of the parties has been physically abused or threatened with physical abuse by the other party. In such cases, both parties shall complete and submit form 9A or 9B, specifying the form(s) of ADR the parties individually prefer, not what is agreed upon.

(b) Court Involvement. If the parties cannot agree on the appropriate ADR process, the timing of the process, or the selection of a neutral, or if the court does not approve the parties' agreement, the court shall, in cases subject to Rule 111, schedule a telephone or in-court conference of the attorneys and any unrepresented parties within thirty days after the due date for filing initial case management informational statements pursuant to Rule ~~111.02~~ or 304.02 or the filing of a civil cover sheet pursuant to Rule 104 to discuss ADR and other scheduling and case management issues.

Except as otherwise provided in Minnesota Statutes, section 604.11 or Rule 310.01, the court, at its discretion, may order the parties to utilize one of the non-binding processes, or may find that ADR is not appropriate; provided that no ADR process shall be approved if the court finds that ADR is not appropriate or if it amounts to a sanction on a non-moving party. Where the parties have proceeded in good faith to attempt to resolve the matter using collaborative law, the court should not ordinarily order the parties to use further ADR processes.

* * *

RULE 115. MOTION PRACTICE

* * *

Rule 115.04. Non-Dispositive Motions

(a) No motion shall be heard until the moving party pays any required motion filing fee, serves a copy of the following documents on the other party or parties and files the original with the court administrator at least 14 days prior to the hearing:

(1) Notice of motion and motion;

(2) Proposed order;

(3) Any affidavits and exhibits to be submitted in conjunction with the motion;
and

(4) Any memorandum of law the party intends to submit.

(b) The party responding to the motion shall serve a copy of the following documents on the moving party and other interested parties and shall file the original with the court administrator at least 7 days prior to the hearing:

(1) Any memorandum of law the party intends to submit; and

(2) Any relevant affidavits and exhibits.

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

(d) **Expedited, Informal Non-Dispositive Motion Process.** The moving party is encouraged to consider whether the motion can be informally resolved through a telephone conference with the judge. The moving party may invoke this informal resolution process by written notice to the court and all parties. The moving party must also contact the appropriate court administrative or judicial staff to schedule a phone conference. The parties may (but are not required to) submit short letters, with or without a limited number of documents attached (no briefs, declarations or sworn affidavits are to be filed), prior to the conference to set forth their respective positions. The court will read the written submissions of the parties before the phone conference, hear arguments of counsel and unrepresented parties at the conference, and issue its decision at the conclusion of the phone conference or shortly after the conference. Depending on the nature of the dispute, the court may or may not issue a written order. The court may also determine that the dispute must be presented to the court via formal motion and hearing. Telephone conferences will not be recorded or transcribed.

RULE 144. ACTIONS FOR DEATH BY WRONGFUL ACT

144.01 Application for Appointment of Trustee.

Every application for the appointment of a trustee of a claim for death by wrongful act under Minnesota Statutes, section 573.02, shall be made by the verified petition of the surviving spouse or one of the next of kin of the decedent. The petition shall show the dates and places of the decedent's birth and death; the decedent's address at the time of death; the name, age and address of the decedent's surviving spouse, children, parents, grandparents, and siblings; and the name, age, occupation and address of the proposed trustee. The petition shall also show whether or not any previous application has been made, the facts with reference thereto and its disposition shall also be stated. The written consent of the proposed trustee to act as such shall be endorsed on or filed with such petition. The application for appointment shall not be considered filing of a paper in the case for the purpose of any requirement for filing a certificate of representation or civil cover sheet informational statement.

634

* * *

635

RULE 146. COMPLEX CASES

636

[Publishers Note: Because rule 146 is a new rule in General Rules of Practice for the District

637

Courts, underlining to show new language has been omitted]

638

146.01 Purpose; Principles

639

The purposes of the Complex Case Program (“CCP”) are to promote effective and efficient judicial management of complex cases in the district courts, avoid unnecessary burdens on the court, keep costs reasonable for the litigants and to promote effective decision making by the court, the parties and counsel.

643

The core principles that support the establishment of a mandatory CCP include:

644

(a) Early and consistent judicial management promotes efficiency.

645

646

(b) Mandatory disclosure of relevant information, rigorously enforced by the court, will result in disclosure of facts and information necessary to avoid unnecessary litigation procedures and discovery.

649

650

(c) Blocking complex cases to a single judge from the inception of the case results in the best case management.

652

653

(d) Firm trial dates result in better case management and more effective use of the parties’ resources, with continuances granted only for good cause.

655

656

(e) Education and training for both judges and court staff will assist with the management of complex cases.

658

659

146.02 Definition of a Complex Case

660

661

(a) **Definition.** A “complex case” is an action that requires exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties, and counsel.

665

666

(b) **Factors.** In deciding whether an action is a complex case under (a), the court must consider, among other things, whether the action is likely to involve:

668

669

(1) Numerous hearings, pretrial and dispositive motions raising difficult or novel legal issues that will be time-consuming to resolve;

671

672

(2) Management of a large number of witnesses or a substantial amount of documentary evidence;

673

- 673 (3) Management of a large number of separately represented parties;
674 (4) Multiple expert witnesses;
675 (5) Coordination with related actions pending in one or more courts in other
676 counties, states, or countries, or in a federal court;
677 (6) Substantial post judgment judicial supervision; or
678 (7) Legal or technical issues of complexity.

679 **(c) Provisional designation.** An action is provisionally a complex case if it involves
680 one or more of the following types of claims:

- 681 (1) Antitrust or trade regulation claims;
682 (2) Intellectual property matters, such as trade secrets, copyrights, patents, etc.;
683 (3) Construction defect claims involving many parties or structures;
684 (4) Securities claims or investment losses involving many parties;
685 (5) Environmental or toxic tort claims involving many parties;
686 (6) Product liability claims;
687 (7) Claims involving mass torts;
688 (8) Claims involving class actions;
689 (9) Ownership or control of business claims; or
690 (10) Insurance coverage claims arising out of any of the claims listed in (c)(1)
691 through (c)(9).

692 **(d) Parties' designation.** In any action not enumerated above, the parties can agree
693 to be governed by Rule 146 of these rules by filing a "CCP Election," in a form to be developed
694 by the state court administrator and posted on the main state court website, to be filed along with
695 the initial pleading.
696

697 **(e) Motion to Exclude Complex Case Designation.** A party objecting to the
698 provisional assignment of a matter to the CCP must serve and file a motion setting forth the
699 reasons that the matter should be removed from the CCP. The motion papers must be served and
700 filed within 14 days of the date the moving party is served with the CCP Designation. The
701 motion shall be heard during the Case Management Conference or at such other time as
702 determined by the court. The factors that should be considered by the court in ruling on the
703 motion include the factors set forth in Rule 146.02 (b) and (c) above.
704

705 **146.03 Judge Assigned to Complex Cases** 706

A single judge shall be assigned to all designated complex cases within 30 days of filing in accordance with Rule 113 of these rules. In making the assignment the assigning judge should consider, among other factors, the needs of the court, the judge's ability, interest, training, experience (including experience with complex cases) and willingness to participate in educational programs related to the management of complex cases.

146.04 Mandatory Case Management Conferences

(a) Within 28 days of assignment, the judge assigned to a complex case shall hold a mandatory case management conference. Counsel for all parties and pro se parties shall attend the conference. At the conference, the court will discuss all aspects of the case as contemplated by Minn. R. Civ. P. 16.01.

(b) The court may hold such additional case management conferences, including a pretrial conference, as it deems appropriate.

146.05 Case Management Order and Scheduling Order

In all complex cases, the judge assigned to the case shall enter a Case Management Order and a Scheduling Order (together or separately) addressing the matters set forth in Minn. R. Civ. P. 16.02 and 16.03, and including without limitation the following:

- (a) The dates for subsequent Case Management Conferences in the case;
- (b) the deadline for the parties to meet and confer regarding discovery needs and the preservation and production of electronically stored information;
- (c) the deadline for joining other parties;
- (d) the deadline for amending the pleadings;
- (e) the deadline by which fact discovery will close and provisions for disclosure or discovery of electronically stored information;
- (f) the deadlines by which parties will make expert witness disclosures and deadlines for expert witness depositions;
- (g) the deadlines for non-dispositive and dispositive motions;
- (h) any modifications to the extent of required disclosures and discovery, such as, among other things, limits on:
 - (1) the number of fact depositions each party may take;
 - (2) the number of interrogatories each party may serve;
 - (3) the number of expert witnesses each party may call at trial;

(4) the number of expert witnesses each party may depose; and

(i) a date certain for trial subject to continuation for good cause only, and a statement of whether the case will be tried to a jury or the bench and an estimate of the trial's duration.

* * *

PART H. MINNESOTA CIVIL TRIALBOOK

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Section 11. Interpreters

The party calling a witness for whom an interpreter is required shall advise the court in the Civil Cover Sheet, Initial Case Management Informational Statement, or Joint Statement of the Case of the need for an interpreter and interpreter services (specifying the language and, if known, particular dialect) expected to be required. Parties shall not use a relative or friend as an interpreter in a contested proceeding, except as approved by the court.