

OCT 22 2010

FILED

STATE OF MINNESOTA

IN SUPREME COURT

ADM04-8001 (formerly C6-84-2134), CX-89-1863, C4-84-2133

**ORDER PROMULGATING AMENDMENTS  
TO RULES OF CIVIL PROCEDURE**

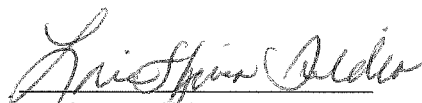
The Supreme Court Advisory Committee on the Rules of Civil Procedure has recommended certain amendments to the Rules of Civil Procedure permitting the authorization of e-filing under orders issued by the Court. The Court has reviewed the proposals and is advised in the premises.

IT IS ORDERED that:

1. The attached amendments to the Rules of Civil Procedure be, and the same are, prescribed and promulgated to be effective immediately.
2. These amendments shall apply to all actions or proceedings commenced on or after the effective date.
3. The inclusion of advisory committee comments is made for convenience and does not reflect court approval of the statements made therein.

Dated: October 21, 2010

BY THE COURT:

  
Lorie S. Gildea  
Chief Justice

# Amendments to Minnesota Rules of Civil Procedure

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

## 1 **RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS**

2 \*\*\*

### 3 **Rule 5.02. Service; How Made**

4 Whenever under these rules service is required or permitted to be made  
5 upon a party represented by an attorney, the service shall be made upon the  
6 attorney unless service upon the party is ordered by the court. Written admission  
7 of service by the party or the party's attorney shall be sufficient proof of service.  
8 Service upon the attorney or upon a party shall be made by delivering a copy to  
9 the attorney or party; transmitting a copy by facsimile machine to the attorney or  
10 party's office; or by mailing a copy to the attorney or party at the attorney's or  
11 party's last known address or, if no address is known, by leaving it with the court  
12 administrator. Delivery of a copy within this rule means: Handing it to the  
13 attorney or to the party; or leaving it at the attorney's or party's office with a clerk  
14 or other person in charge thereof; or, if there is no one in charge, leaving it in a  
15 conspicuous place therein; or, if the office is closed or the person to be served has  
16 no office, leaving it at the attorney's or party's dwelling house or usual place of  
17 abode with some person of suitable age and discretion then residing therein.  
18 Service by mail is complete upon mailing. Service by facsimile is complete upon  
19 completion of the facsimile transmission.

20 Service of all papers after the original complaint may be made by electronic  
21 means other than facsimile transmission if authorized by an order of the Minnesota  
22 Supreme Court and if service is made in accordance with that order. Service by

23 authorized electronic means is complete upon completion of the electronic  
24 transmission.

25 \* \* \*

26 **Advisory Committee Comment—2010 Amendment**

27 Rule 5.02 is amended to provide for service by electronic means, other  
28 than by facsimile as allowed by the existing rule, if authorized by an order of  
29 the Minnesota Supreme Court. This amendment is intended to facilitate a pilot  
30 project on electronic service and filing in one or two districts, but is designed to  
31 be a model for the implementation of electronic filing and service if the pilot  
32 project is made permanent and statewide. The rule makes service by electronic  
33 means effective when transmission is complete, just as the existing rules  
34 provide for filing and service by mail and facsimile transmission.

35 Service by electronic means is allowed for documents served after the  
36 original summons. Service under Rule 4 is required for summonses, and  
37 electronic service is not one of the means of service under that rule.

38 This amendment is modeled on rules 5(b)(2)(D) & (3) of the Federal  
39 Rules of Civil Procedure, as amended to implement electronic filing and  
40 service in the federal courts.

41 **Rule 5.06. Filing Electronically**

42 Where authorized by order of the Minnesota Supreme Court, papers may be  
43 filed electronically by following the procedures of such order and will be deemed  
44 filed in accordance with the provisions of that that order.

45 \* \* \*

46 **Advisory Committee Comment—2010 Amendment**

47 Rule 5.06 is a new rule to provide for filing by electronic means, if  
48 authorized by an order of the Minnesota Supreme Court. This amendment is  
49 intended to facilitate a pilot project on electronic service and filing in one or  
50 two districts, but is designed to be a model for the implementation of electronic  
51 filing if the pilot project is made permanent and statewide. The rule makes  
52 filing by electronic means effective in accordance with the rule for the pilot  
53 project.

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

56 **Rule 11.01. Signature**

57 Every pleading, written motion, and other paper shall be signed by at least  
58 one attorney of record in the attorney's individual name, or, if the party is not  
59 represented by an attorney, shall be signed by the party. Each paper shall state the  
60 signer's address and telephone number, if any, and attorney registration number if  
61 signed by an attorney. Except when otherwise specifically provided by rule or  
62 statute, pleadings need not be verified or accompanied by affidavit. An unsigned  
63 paper shall be stricken unless omission of the signature is corrected promptly after  
64 being called to the attention of the attorney or party. If authorized by order of the  
65 Minnesota Supreme Court, a paper filed, signed, or verified by electronic means in  
66 accordance with that order constitutes a signed paper for the purpose of applying  
67 these rules.

68 \* \* \*

69 **Advisory Committee Comment—2010 Amendment**

70 Rule 11.01 is amended to add the last sentence. This amendment makes it  
71 clear that "signing" in accordance with a rule allowing for filing and service by  
72 electronic means where authorized by an order of the Minnesota Supreme  
73 Court is treated as a signature for the purpose of Rule 11 or other provision in  
74 the rules. This amendment is intended to facilitate a pilot project on electronic  
75 filing in one or two districts, but is designed to be a model for the  
76 implementation of electronic filing and service if the pilot project is made  
77 permanent and statewide.

78 \* \* \*