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FILED

STATE OF MINNESOTA
IN SUPREME COURT
CX-89-1863 and C4-94-1646

PROMULGATION OF AMENDMENTS
TO THE MINNESOTA GENERAL RULES OF PRACTICE
FOR THE DISTRICT COURTS AND SPECIAL RULES
OF PROCEDURE GOVERNING PROCEEDINGS
UNDER THE MINNESOTA COMMITMENT AND TREATMENT ACT

ORDER

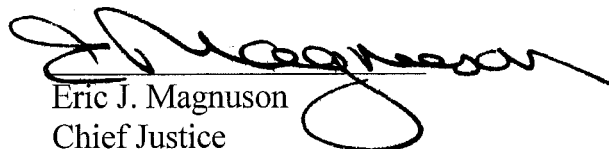
In its report filed August 31, 2009, the Supreme Court Advisory Committee on the General Rules of Practice recommended amendments to the General Rules of Practice for the District Courts and the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act. This court established a deadline of November 9, 2009, for submitting comments on the proposal. The court has reviewed the proposals and the submitted comments, and is fully advised in the premises.

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the General Rules of Practice for the District Courts and the Special Rules of Procedure Governing Proceedings under the Minnesota Commitment and Treatment Act be, and the same are, prescribed and promulgated to be effective on January 1, 2010.
2. The attached amendments shall apply to all actions pending on the effective date and to those filed thereafter.
3. The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the comments made therein.

Dated: November 19, 2009

BY THE COURT:


Eric J. Magnuson
Chief Justice

**AMENDMENTS TO THE GENERAL RULES OF PRACTICE
FOR THE DISTRICT COURTS**

[Note: new material is indicated by underscoring, except committee comments, which are all new; deleted material is indicated by strikethrough except that forms being transferred to the website are not indicated by strikethrough.]

1 **Forms Transfer to Website.** The following forms are deleted from the
2 Rules and shall be maintained by State Court Administration on the court's
3 website.

- 4 1. Form 5, Pro Hac Vice
- 5 2. Form 11.1, Confidential Information Form
- 6 3. Form 11.2, Sealed Financial Source Documents Cover Sheet
- 7 4. Form UCF-8 Statement of Claim and Summons
- 8 5. Form UCF-9 Judgment and Notice of Judgment
- 9 6. Form UCF-10 Defendant's Counterclaim
- 10 7. Form UCF-22 Financial Disclosure Form
- 11 8. Form 508.1 Conciliation Court Affidavit of Service

12 **RULE 11. SUBMISSION OF CONFIDENTIAL INFORMATION**

13 * * *

14 **Rule 11.02. Restricted Identifiers**

15 (a) Pleadings and Other Documents Submitted by a Party. No party
16 shall submit restricted identifiers on any pleading or other document that is to be
17 filed with the court except:

- 18 (i) on a separate form entitled Confidential Information Form
19 (see Form 11.1 ~~appended to these rules~~ as published by the

20 state court administrator) filed with the pleading or other
21 document; or

22 (ii) on Sealed Financial Source Documents under Rule 11.03.

23 The parties are solely responsible for ensuring that restricted identifiers do not
24 otherwise appear on the pleading or other document filed with the court. The
25 court administrator will not review each pleading or document filed by a party for
26 compliance with this rule. The Confidential Information Form shall not be
27 accessible to the public.

28 (b) Records Generated by the Court. Restricted identifiers maintained
29 by the court in its register of actions (i.e., activity summary or similar information
30 that lists the title, origination, activities, proceedings and filings in each case),
31 calendars, indexes, and judgment docket shall not be accessible to the public.
32 Courts shall not include restricted identifiers on judgments, orders, decisions, and
33 notices except on the Confidential Information Form (Form 11.1), which shall not
34 be accessible to the public.

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36 **Rule 11.03. Sealing Financial Source Documents**

37 Financial source documents shall be submitted to the court under a cover
38 sheet designated “Sealed Financial Source Documents” and substantially in the
39 form set forth as Form 11.2 ~~appended to these rules~~ as published by the state court
40 administrator. Financial source documents submitted with the required cover
41 sheet are not accessible to the public except to the extent that they are admitted
42 into evidence in a testimonial hearing or trial or as provided in Rule 11.05 of these
43 rules. The cover sheet or copy of it shall be accessible to the public. Financial
44 source documents that are not submitted with the required cover sheet and that
45 contain restricted identifiers are accessible to the public, but the court may, upon
46 motion or on its own initiative, order that any such financial source document be
47 sealed.

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Advisory Committee Comment—2009 Amendment

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Rule 11 is amended to remove Forms 11.1 and 11.2 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 form by the state court administrator. The form, together with other court forms, can be found at <http://www.mncourts.gov/>.

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Forms 11.1 and 11.2 should be deleted from the rules and maintained in the future on the court's website.

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59 **RULE 12. REQUIREMENT FOR COMPARABLE MEANS OF SERVICE**

60 In all cases, a party serving a paper on a party and filing the same paper
61 with the court must select comparable means of service and filing so that the
62 papers are delivered substantially contemporaneously. This rule does not apply to
63 service of a summons or a subpoena. Pleadings and other papers need not be filed
64 until required by Minn. R. Civ. P. 5.05 and motions for sanctions may not be filed
65 before the time allowed by Minn. R. Civ. P. 11.03(a).

66 In emergency situations, where compliance with this rule is not possible,
67 the facts of attempted compliance must be provided by affidavit.

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69 **Advisory Committee Comment—2009 Amendment**

70 Rule 12 is amended to add the last sentence of the first paragraph.
71 The amendment is intended to clarify that the rule does not modify two facets
72 of practice established before its adoption. It does not require that pleadings be
73 filed before the time allowed under Rule 5.05, which generally makes it
74 unnecessary to file pleadings until after a party files a pleading, thereby
75 opening a court file. This rule is a part of Minnesota’s “hip-pocket” service
76 regime as established by Minn. R. Civ. P. 3. Rule 11 of the Minnesota Rules of
77 Civil Procedure contains a 21-day “safe harbor” provision, requiring service of
78 a motion for sanctions but prohibiting filing of the motion for 21 days. The
79 amendment to Rule 12 of the general rules was not intended to modify that
80 important provision.
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82 **RULE 13. REQUIREMENT TO PROVIDE NOTICE OF CURRENT**
83 **ADDRESS**

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85 **Rule 13.01. Duty to Provide Notice**

86 In all actions, it is the responsibility of the parties, or their counsel of
87 record, to provide notice to all other parties and to the court administrator of their
88 current address for delivery of notices, orders, and other papers in the case.
89 Failure to provide this notice constitutes waiver of the right to notice until a
90 current address is provided.

91 **Rule 13.02. Elimination of Requirement to Provide Notice to Lapsed**
92 **Address**

93 In the event notices, pleadings or other papers are returned by the postal
94 service after the court administrator's mailing to a party or attorney's address of
95 record on two separate mailings, the administrator should make reasonable efforts
96 to obtain a valid, current address. If those efforts are not successful, the
97 administrator may omit making further mailings to that party or attorney in that
98 action, and shall place appropriate notice in the court file or docket indicating that
99 notices are not being mailed to all parties.

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101 **Advisory Committee Comment—2009 Amendment**

102 Rule 13 is a new rule intended to make explicit what has heretofore been
103 expected of parties and their counsel: to keep the court apprised of a current
104 address for mailing notices, orders, and other papers routinely mailed by the
105 administrator to all parties. Where the court does not have a valid address,
106 evidenced by two returned mailings, and cannot readily determine the correct
107 address, the rule makes it unnecessary for the administrator to continue the
108 futile mailing of additional papers until the party or attorney provides a current
109 address.

110 The purpose of this rule is to require meaningful notice. If a party is a
111 participant in the Secretary of State's address confidentiality program, there is
112 no reason not to permit the use of that address to satisfy the requirement of this
113 rule. See MINN. STAT. §§ 5B.01-.09 (2008).

115 **RULE 111. SCHEDULING OF CASES**

116 **Rule 111.01. Scope**

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

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

121 (b) Family court matters governed by Minn. Gen. R. Prac. 301 through
122 312;

123 (c) Public assistance appeals under Minnesota Statutes, section 256.045,
124 subdivision 7;

125 (d) Unlawful detainer actions pursuant to Minnesota Statutes, sections
126 504B.281, et seq.;

127 (e) Implied consent proceedings pursuant to Minnesota Statutes, section
128 169.123;

129 (f) Juvenile court proceedings;

130 (g) Civil commitment proceedings subject to the Special Rules of
131 Procedure Governing Proceedings Under the Minnesota Commitment Act of
132 1982;

133 (h) Probate court proceedings;

134 (i) Periodic trust accountings pursuant to Minn. Gen. R. Prac. 417;

135 (j) Proceedings under Minnesota Statutes, section 609.748 relating to
136 harassment restraining orders;

137 (k) Proceedings for registration of land titles pursuant to Minnesota
138 Statutes, chapter 508;

139 (l) Election contests pursuant to Minnesota Statutes, chapter 209; and

140 (m) Applications to compel or stay arbitration under Minnesota Statutes,
141 chapter 572.;

142 (n) consumer credit contract actions (see Case Type 3A, Minn. R. Civ. P.
143 Form 23); and
144 (o) mechanics' lien actions.

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

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148 **Advisory Committee Comment—2009 Amendment**

149 Rule 111.01 is amended to exempt consumer credit contract actions and
150 mechanics lien actions from the case scheduling regime generally followed in
151 civil proceedings. These changes are made because these cases are required to
152 be filed but are often either not ready for case scheduling or are unlikely ever to
153 require it. “Consumer credit contract actions” refer to those cases properly
154 carrying the case type identifier “3A. Consumer Credit Contracts,” which as
155 specified in Form 23 of the Minnesota Rules of Civil Procedure requires three
156 things: (1) that the plaintiff is a corporation or other business organization, not
157 an individual; (2) that the defendant is an individual; and (3) that the contract
158 amount does not exceed \$20,000.

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160 **RULE 304. SCHEDULING OF CASES**

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162 **Rule 304.02. The Party's Informational Statement**

163 (a) **Timing.** Within 60 days after filing an action or, if a temporary
164 hearing is scheduled within 60 days of the filing of the action, then within 60 days
165 after a temporary hearing is initially scheduled to occur, whichever is later, each
166 party shall submit, on a form to be available from the court and developed by the
167 state court administrator, the information needed by the court to manage and
168 schedule the case.

169 (b) **Content.** The information provided shall include:

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

171 (i) Whether custody is in dispute; and

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

174 (2) Whether the case involves complex evaluation issues, and/or
175 marital and nonmarital property issues;

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

178 (4) Whether the case is complex, and if so, the specific
179 supporting facts;

180 (5) Specific facts about the case which will affect readiness for
181 trial;

182 (6) Recommended alternative dispute resolution process, the
183 timing of the process, the identity of the neutral selected by the parties or, if
184 the neutral has not yet been selected, the deadline for selection of the
185 neutral. If ADR is believed to be inappropriate, a description of the reasons
186 supporting this conclusion; and

187 (7) Identification of interpreter services (specifying language and,
188 if known, particular dialect) any party anticipates will be required for any
189 witness or party; and

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

192 (c) **Unrepresented Parties.** Parties not represented by a lawyer may
193 use forms developed specially by the state court administrator for unrepresented
194 parties.

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196 Advisory Committee Comment—2009 Amendment

197 Rule 304.02 is amended to include section (b)(7) adopted to implement
198 the gathering of information about the potential need for interpreter services in
199 a case, either for witnesses or for a party. *See* Minn. Gen. R. Prac. 8.13.

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201 **RULE 309. CONTEMPT**

202 **Rule 309.01. Initiation**

203 **(a) Moving Papers-Service; Notice.** Contempt proceedings shall may be
204 initiated by notice of motion and motion or by an order to show cause served upon
205 the person of the alleged contemnor together with motions accompanied by
206 appropriate supporting affidavits.

207 The order to show cause shall direct the alleged contemnor to appear and
208 show cause why he or she should not be held in contempt of court and why the
209 moving party should not be granted the relief requested by the motion. If
210 proceeding by notice of motion and motion, the motion may seek that relief
211 directly.

212 The notice of motion and motion or the order to show cause shall contain at
213 least the following:

- 214 (1) a reference to the specific order of the court alleged to have
215 been violated and date of entry of the order;
- 216 (2) a quotation of the specific applicable provisions ordered; and
- 217 (3) the alleged failures to comply.

218 **(b) Affidavits.** The supportive affidavit of the moving party shall set
219 forth each alleged violation of the order with particularity. Where the alleged
220 violation is a failure to pay sums of money, the affidavit shall state the kind of
221 payments in default and shall specifically set forth the payment dates and the
222 amounts due, paid and unpaid for each failure.

223 The responsive affidavit shall set forth with particularity any defenses the
224 alleged contemnor will present to the court. Where the alleged violation is a
225 failure to pay sums of money, the affidavit shall set forth the nature, dates and
226 amount of payments, if any.

227 The supportive affidavit and the responsive affidavit shall contain
228 numbered paragraphs which shall be numbered to correspond to the paragraphs of
229 the motion where possible.

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Advisory Committee Comment—2009 Amendment

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Rule 309.01 is amended in 2009 to remove an apparent requirement that any contempt proceeding be commenced by order to show cause. Although an order to show cause is an available mechanism for initiating contempt proceedings, the authorizing statute also recognizes that these proceedings may be commenced by motion accompanied by appropriate notice. *See* MINN. STAT. § 588.04. The amendment to Rule 309.01 is intended simply to recognize that both mechanisms are available. In many situations, proceeding by order to show cause is preferable. Use of an order to show cause, which is court process served with the same formality as a summons, permits the court to impose sanctions directly upon failure to comply. *See* MINN. STAT. § 588.04. It is the preferred means to commence a contempt proceeding if there is significant risk that the alleged contemnor is likely not to appear in response to a notice of motion.

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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.”

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).

274 **RULE 507. STATEMENT OF CLAIM AND COUNTERCLAIM;**
275 **CONTENTS; VERIFICATION**

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277 **(b) Uniform Statement of Claim or Counterclaim; Acceptance by**
278 **Court.** A statement of claim or counterclaim in the uniform form ~~prescribed in~~
279 ~~the appendix to these rules as published by the state court administrator~~ shall be
280 accepted by any conciliation court administrator when properly completed and
281 filed with the applicable fees, if any.

282 **RULE 508. SUMMONS; TRIAL DATE**

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284 **(e) Proof of Service.** Service by first class mail or certified mail shall be
285 proven by an affidavit of service in form substantially similar to that ~~contained in~~
286 ~~Form 508.1~~ published by the state court administrator. Service may be
287 alternatively proven, when made by the court administrator, by any appropriate
288 notation in the court record of the date, time, method, and address used by the
289 administrator to effect service.

290 **Advisory Committee Comment—2009 Amendment**

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

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

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RULE 517. PAYMENT OF JUDGMENT

300 **Rule 517. Payment of Judgment**

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

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

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Advisory Committee Comment—2009 Amendment

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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.

321 **RULE 518. DOCKETING OF JUDGMENT IN DISTRICT COURT;**
322 **ENFORCEMENT**

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

332 (b) **Enforcement.** Unless the parties have otherwise agreed, if a
333 conciliation court judgment has been docketed in district court ~~for a period of at~~
334 ~~least 30 days~~ and the judgment is not satisfied, the district court shall upon request
335 of the judgment creditor order the judgment debtor to mail to the judgment
336 creditor information as to the nature, amount, identity, and location of all the
337 debtor's assets, liabilities, and personal earnings. The information shall be
338 provided on a form substantially similar to that published by the state court
339 administrator ~~prescribed by the Supreme Court (see form UCF-22 appended to~~
340 ~~these rules)~~, and the information shall be sufficiently detailed to enable the
341 judgment creditor to obtain satisfaction of the judgment by way of execution on
342 nonexempt assets and earnings of the judgment debtor. The order shall contain a
343 notice that failure to complete the form and mail it to the judgment creditor within
344 ten days after service of the order may result in a citation for civil contempt of
345 court. Cash bail posted as a result of being cited for civil contempt of court order
346 under this rule may be ordered payable to the creditor to satisfy the judgment,
347 either partially or fully.

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Advisory Committee Comment—2009 Amendment

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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.

359 **RULE 707. TRANSCRIPTION OF PLEAS, SENTENCES,**
360 **AND REVOCATION HEARINGS IN FELONY,**
361 **GROSS MISDEMEANOR, AND EXTENDED JUVENILE**
362 **JURISDICTION PROCEEDINGS,**
363 **AND GRAND JURY PROCEEDINGS**

364 The following provisions relate to all pleas, sentences, and revocation
365 hearings in all felony, gross misdemeanor, and extended juvenile jurisdiction
366 proceedings, and all grand jury proceedings. Grand jury proceedings are secret as
367 provided in Rule 18 of the Minnesota Rules of Criminal Procedure and this rule
368 must be construed to maintain secrecy in accordance with that rule.

369 (a) Court reporters and operators of electronic recording equipment shall
370 file the stenographic notes or tape recordings of guilty plea, or sentencing and
371 revocation hearings with the court administrator within 90 days of sentencing, and
372 the stenographic notes or tape recordings of grand jury proceedings shall be filed
373 with the court administrator and maintained in a non-public portion of the file at
374 the conclusion of grand jury hearings. The reporter or operator may retrieve the
375 notes or recordings if necessary. Minn. Stat. § 486.03 (2002) is superceded to the
376 extent that it conflicts with this procedure.

377 (b) All original grand jury transcripts shall be filed within 60 days of
378 request by the court or prosecutor or receipt of an order from the appropriate court
379 directing transcription and shall be made available to parties other than the court
380 or prosecutor only in accordance with that court order. The court administrator
381 must file and maintain all grand jury transcripts in a non-public portion of the file.
382 The court may allow extension of this 60-day deadline upon a showing of good
383 cause.

384 (b~~c~~) No charge may be assessed for preparation of a transcript for the
385 district court's own use; any other person may ordering a transcript as allowed
386 under the rules shall be at the expense of that person. Transcripts ordered by the
387 defendant or defense counsel shall be prepaid except when the defendant is

388 represented by the public defender or assigned counsel, or when the defendant
389 makes a sufficient affidavit of an inability to pay and the court orders that the
390 defendant be supplied with the transcript at the expense of the appropriate
391 governmental unit.

392 (d) If no district court file exists with respect to a grand jury proceeding,
393 the administrator shall open a grand jury file upon the request of the prosecutor.

394 (e) The maximum rate charged for the transcription of any proceeding
395 shall be established, until July 1, 2005, by the Conference of Chief Judges, and
396 thereafter by the Judicial Council. Minn. Stat. § 486.06 (2002) is superceded to
397 the extent that it conflicts with this procedure.

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Advisory Committee Comment—2009 Amendment

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Grand jury proceedings in Minnesota are secret. See Minn. R. Crim. P. 18.08. The court and prosecutors may obtain access to grand jury records and may order a transcript; any other transcription may occur only pursuant to Minn. R. Crim. P. 18.05, subd. 1. Rule 707 is amended to provide the rules for filing and maintaining transcripts of grand jury proceedings in the limited circumstances where the transcription is permitted or ordered. The court may also enter a protective order to prohibit further disclosure of the grand jury transcript. Minn. R. Crim. P. 18.05, subd. 2.

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Rule 707(d) recognizes that there are circumstances where a grand jury is not separately convened for a particular case, and there is no separate file for that grand jury. This subdivision allows the prosecutor to request that a file be opened to serve as the repository for notes, records, or transcript from that proceeding.

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