

STATE OF MINNESOTA
IN SUPREME COURT

ADM10-8051
ADM09-8009
ADM04-8001

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

ORDER

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

Dated: February 12, 2013

BY THE COURT:

/s/

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.*]
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7 **RULE 3. COMMENCEMENT OF THE ACTION; SERVICE OF THE COMPLAINT;**
8 **FILING OF THE ACTION**

9 **Rule 3.01 Commencement of the Action**

10 A civil action is commenced against each defendant:

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

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

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14 (c) when the summons is delivered to the sheriff in the county where the
15 defendant resides for service; but such delivery shall be ineffectual unless within 60 days
16 thereafter the summons is actually served on that defendant or the first publication
17 thereof is made.
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19 Filing requirements are set forth in Rule 5.04, which requires filing with the court within
20 one year after commencement for non-family cases.
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26 **RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS**

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

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

33 All documents after the complaint required to be served upon a party, together with a
34 certificate of service, shall be filed with the court within a reasonable time after service, except

35 disclosures under Rule 26, expert disclosures and reports, depositions upon oral examination and
36 interrogatories, requests for documents, requests for admission, and answers and responses
37 thereto shall not be filed unless upon order of the court or for use in the proceeding.

38 The administrator shall not refuse to accept for filing any document presented for that
39 purpose solely because it is not presented in proper form as required by these rules or any local
40 rules or practices. Documents may be rejected for filing if tendered without a required filing fee
41 or a correct assigned file number, or are tendered to an administrator other than for the court
42 where the action is pending.

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45 **RULE 26. DUTY TO DISCLOSE; GENERAL PROVISIONS GOVERNING**
46 **DISCOVERY**

47 **26.01 Discovery Methods Required Disclosures**

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

52 **(a) Initial Disclosure.**

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

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

60 (B) a copy—or a description by category and location—of all documents,
61 electronically stored information, and tangible things that the disclosing party has
62 in its possession, custody, or control and may use to support its claims or
63 defenses, unless the use would be solely for impeachment;

64 (C) a computation of each category of damages claimed by the disclosing
65 party—who must also make available for inspection and copying as under Rule
66 34 the documents or other evidentiary material, unless privileged or protected
67 from disclosure, on which each computation is based, including materials bearing
68 on the nature and extent of injuries suffered; and

69 (D) for inspection and copying as under Rule 34, any insurance agreement
70 under which an insurance business may be liable to satisfy all or part of a possible

71 judgment in the action or to indemnify or reimburse for payments made to satisfy
72 the judgment.

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

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

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

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

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

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

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

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

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

86 (I) Torrens actions;

87 (J) conciliation court appeals;

88 (K) forfeitures;

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

90 (M) harassment proceedings;

91 (N) name change proceedings;

92 (O) default judgments;

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

95 (Q) appointment of trustee;

96 (R) condemnation appeal;

97 (S) confession of judgment;

98 (T) implied consent;

99 (U) restitution judgment; and

100 (V) tax court filings.

101 (3) Time for Initial Disclosures—In General. A party must make the initial
102 disclosures at or within 60 days after the original due date when an answer is required,
103 unless a different time is set by stipulation or court order, or unless an objection is made
104 in a proposed discovery plan submitted as part of a civil cover sheet required under Rule
105 104 of the General Rules of Practice for the District Courts. In ruling on the objection,
106 the court must determine what disclosures, if any, are to be made and must set the time
107 for disclosure. In medical malpractice and other professional malpractice cases in which
108 an expert affidavit is required, a party must make initial disclosures within sixty (60) days
109 of the service of the expert affidavit.

110 (4) Time for Initial Disclosures—For Parties Served or Joined Later. A party that
111 is first served or otherwise joined after the initial disclosures are due under Rule
112 26.01(a)(3) must make the initial disclosures within 30 days after being served or joined,
113 unless a different time is set by stipulation or court order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

155 **(c) Pretrial Disclosures.**

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

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

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

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

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

176 (d) Form of Disclosures. Unless the court orders otherwise, all disclosures under Rule
177 26.01 must be in writing, signed, and served.

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179 **MINNESOTA GENERAL RULES OF PRACTICE**

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181 **RULE 104. CIVIL COVER SHEET AND CERTIFICATE OF REPRESENTATION AND**
182 **PARTIES**

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

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

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192 (b) If the case is a non-family civil case other than those listed in Rule 111.01, basic
193 information about the case in a Civil Cover Sheet (see Form CIV117 promulgated by the state
194 court administrator and published on the website www.mncourts.gov) which shall also include
195 the information required in part (a) of this rule. Any other party to the action may, within ten
196 days of service of the filing party’s civil cover sheet, file a supplemental civil cover sheet to
197 provide additional information about the case.

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

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RULE 144. ACTIONS FOR DEATH BY WRONGFUL ACT

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144.01 Application for Appointment of Trustee.

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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 document in the case for the purpose of any requirement for filing a certificate of representation or civil cover sheet ~~informational statement~~.

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