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:

___/s/_____

Lorie S. Gildea
Chief Justice

MINNESOTA RULES OF CIVIL PROCEDURE

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

RULE 1. SCOPE OF RULES

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

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

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RULE 3. COMMENCEMENT OF THE ACTION; SERVICE OF THE COMPLAINT; FILING OF THE ACTION

Rule 3.01 Commencement of the Action

A civil action is commenced against each defendant:

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

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

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

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

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RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

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Rule 5.04 Filing; Certificate of Service

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

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

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

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RULE 26. DUTY TO DISCLOSE; GENERAL PROVISIONS GOVERNING DISCOVERY

26.01 ~~Discovery Methods~~Required Disclosures

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

(a) Initial Disclosure.

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

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

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

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

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

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

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

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

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

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

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

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

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

(G) an action to enforce an arbitration award;

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

(I) Torrens actions;

(J) conciliation court appeals;

(K) forfeitures;

(L) removals from housing court to district court;

(M) harassment proceedings;

(N) name change proceedings;

(O) default judgments;

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

(Q) appointment of trustee;

(R) condemnation appeal;

(S) confession of judgment;

(T) implied consent;

(U) restitution judgment; and

(V) tax court filings.

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

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

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

(b) Disclosure of Expert Testimony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Pretrial Disclosures.

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

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

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

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

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

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

26.02 Discovery Methods, Scope and Limits

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

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

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

~~**(b) Limitations.**~~

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

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

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

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

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

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

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

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

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

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

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

(1) When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, 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.

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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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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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~~ 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.

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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.

MINNESOTA GENERAL RULES OF PRACTICE

RULE 8. INTERPRETERS

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8.13 Requirement for Notice of Anticipated Need for Interpreter

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

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

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

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

(a) If the case is a family case or a civil case listed in Rule 111.01 of this rule, the name, postal address, e-mail address, and telephone number of all counsel and unrepresented parties, if known, in a Certificate of Representation and Parties (see Form ~~104~~ CIV102 promulgated by the state court administrator and published on the website www.mncourts.gov~~appended to these rules~~) or

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

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

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Rule 111.02 The Party's Scheduling Input ~~Informational Statement~~

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

~~(a) The status of service of the action;~~

~~(b) Whether the statement is jointly prepared;~~

~~(c) Description of case;~~

~~(d) Whether a jury trial is requested or waived;~~

~~(e) Discovery contemplated and estimated completion date;~~

~~(f) Whether assignment to an expedited, standard, or complex track is requested;~~

~~(g) The estimated trial time;~~

~~(h) Any proposals for adding additional parties;~~

~~(i) Other pertinent or unusual information that may affect the scheduling or completion of pretrial proceedings;~~

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

~~(k) A proposal for establishing any of the deadlines or dates to be included in a scheduling order pursuant to Minn. Gen. R. Prac. 111.03; and~~

~~(l) Identification of interpreter services (specifying language and, if known, particular dialect) any party anticipates will be required for any witness or party.~~

Rule 111.03. Scheduling Order

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

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

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

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

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RULE 114. ALTERNATIVE DISPUTE RESOLUTION

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Rule 114.02 Definitions

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

(a) ADR Processes.

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

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114.04 Selection of ADR Process

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

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RULE 115. MOTION PRACTICE

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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~~.

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RULE 146. COMPLEX CASES

[Publishers Note: Because rule 146 is a new rule in General Rules of Practice for the District Courts, underlining to show new language has been omitted]

146.01 Purpose; Principles

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.

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

(a) Early and consistent judicial management promotes efficiency.

(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.

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

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

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

146.02 Definition of a Complex Case

(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.

(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:

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

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

(3) Management of a large number of separately represented parties;

(4) Multiple expert witnesses;

(5) Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court;

(6) Substantial post judgment judicial supervision; or

(7) Legal or technical issues of complexity.

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

(1) Antitrust or trade regulation claims;

(2) Intellectual property matters, such as trade secrets, copyrights, patents, etc.;

(3) Construction defect claims involving many parties or structures;

(4) Securities claims or investment losses involving many parties;

(5) Environmental or toxic tort claims involving many parties;

(6) Product liability claims;

(7) Claims involving mass torts;

(8) Claims involving class actions;

(9) Ownership or control of business claims; or

(10) Insurance coverage claims arising out of any of the claims listed in (c)(1) through (c)(9).

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

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

146.03 Judge Assigned to Complex Cases

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.

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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.