OFFICE OF
APPELLATE COURTS

OCT 22 2010

FILED

STATE OF MINNESOTA

IN SUPREME COURT

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

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

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

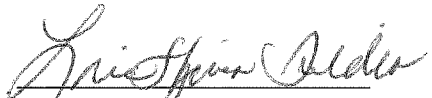
IT IS ORDERED that:

1. The attached amendments to the Rules of Civil Procedure be, and the same are, prescribed and promulgated to be effective immediately.

2. These amendments shall apply to all actions or proceedings commenced on or after the effective date.

3. The inclusion of advisory committee comments is made for convenience and does not reflect court approval of the statements made therein.

Dated: October 21, 2010 BY THE COURT:



Lorie S. Gildea
Chief Justice

Amendments to Minnesota Rules of Civil Procedure

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

RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

***

Rule 5.02. Service; How Made

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

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

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

25 * * *

26 **Advisory Committee Comment—2010 Amendment**
27 Rule 5.02 is amended to provide for service by electronic means, other
28 than by facsimile as allowed by the existing rule, if authorized by an order of
29 the Minnesota Supreme Court. This amendment is intended to facilitate a pilot
30 project on electronic service and filing in one or two districts, but is designed to
31 be a model for the implementation of electronic filing and service if the pilot
32 project is made permanent and statewide. The rule makes service by electronic
33 means effective when transmission is complete, just as the existing rules
34 provide for filing and service by mail and facsimile transmission.
35 Service by electronic means is allowed for documents served after the
36 original summons. Service under Rule 4 is required for summonses, and
37 electronic service is not one of the means of service under that rule.
38 This amendment is modeled on rules 5(b)(2)(D) & (3) of the Federal
39 Rules of Civil Procedure, as amended to implement electronic filing and
40 service in the federal courts.

41 **Rule 5.06. Filing Electronically**

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

45 * * *

46 **Advisory Committee Comment—2010 Amendment**
47 Rule 5.06 is a new rule to provide for filing by electronic means, if
48 authorized by an order of the Minnesota Supreme Court. This amendment is
49 intended to facilitate a pilot project on electronic service and filing in one or
50 two districts, but is designed to be a model for the implementation of electronic
51 filing if the pilot project is made permanent and statewide. The rule makes
52 filing by electronic means effective in accordance with the rule for the pilot
53 project.

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

56 **Rule 11.01. Signature**

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

68 * * *

69 **<u>Advisory Committee Comment—2010 Amendment</u>**
70 Rule 11.01 is amended to add the last sentence. This amendment makes it
71 clear that "signing" in accordance with a rule allowing for filing and service by
72 electronic means where authorized by an order of the Minnesota Supreme
73 Court is treated as a signature for the purpose of Rule 11 or other provision in
74 the rules. This amendment is intended to facilitate a pilot project on electronic
75 filing in one or two districts, but is designed to be a model for the
76 implementation of electronic filing and service if the pilot project is made
77 permanent and statewide.

78 * * *