

STATE OF MINNESOTA

IN SUPREME COURT

CX-89-1863, C6-84-2134

PROMULGATION OF AMENDMENTS
TO THE MINNESOTA GENERAL RULES OF PRACTICE
FOR THE DISTRICT COURTS

ORDER

WHEREAS, The Supreme Court Advisory Committee on the General Rules of Practice for the District Courts has recommended certain amendments to the General Rules of Practice for the District Courts, and

WHEREAS, the recommendations are housekeeping in nature and the Supreme Court is fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached amendments to the General Rules of Practice for the District Courts be, and the same hereby are, prescribed and promulgated to be effective on January 1, 1996.
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: December 14, 1995

BY THE COURT:



A.M. Keith
Chief Justice

OFFICE OF
APPELLATE COURTS

DEC 15 1995

FILED

AMENDMENTS TO THE GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS

Rule 7 PROOF OF SERVICE

When service has been made before filing, proofs of service shall be affixed to all papers so that the identity of the instrument is not obscured. If a document is filed before service, proof of service shall be filed promptly within 10 days after service is made.

ADVISORY COMMITTEE COMMENTS - ~~1991~~ Adoption 1995 AMENDMENTS

This rule derived from Rule 13 of the Code of Rules for the District Court.

The second sentence is new, drafted to provide for filing of documents where service is to be made after filing.

The Committee recommends amendment of the rule to require a specific rather than subjective standard for the filing of proof of service. Although the Committee heard requests to change the rule to require that all documents be filed with proof of service attached, the Committee believes that such a rule is neither helpful nor necessary. Such a rule would make it difficult to serve and file documents at the same time, and would probably result in greater problems relating to untimely service and filing. Nonetheless, there appear to be a number of situations where proof of service is not filed for a substantial period of time, resulting in confusion in the courts. The rule is accordingly amended to change the requirement from filing "promptly" after service to "within ten days" after service. The Committee believes this period is more than sufficient for filing a proof of service. The Committee is also sensitive to a potential problem that would arise with a requirement that proof of service accompany documents at the time of filing. The Committee continues to believe that documents, in whatever form, should not be rejected for filing by the court administrators. Rather, documents should be filed as submitted and the court should deal with any deficiencies or irregularities in the documents in an orderly way, having in mind the mandate of Rule 1 of the Minnesota Rules of Civil Procedure that the rules be interpreted to advance the "just, speedy, and inexpensive" determination of every action.

RULE 104 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 the name, address, and telephone number of all counsel and unrepresented parties, if known (see fForm 104 appended to these rules). 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.

ADVISORY COMMITTEE COMMENTS - 1992~~5~~ AMENDMENTS

* * *

The first clause of the rule is intended to make it clear that where other rules provide specific requirements relating to initiation of an action for scheduling purposes, those rules govern. For example, Minn. Gen. R. Prac. 144.01, as amended in 1992, states that the Certificate of Representation required under this rule is not required in wrongful death actions following the mere filing of a petition for appointment of the trustee, but is required after the action itself is commenced by service of the summons and papers are filed with the court. Rule 141.02, as amended in 1992, similarly provides that filing of a notice of appeal from a commissioner's award triggers the assignment process requirements in condemnation proceedings. In addition to cases exempted by rule, this rule was amended in 1995 to exempt its application to actions that are commenced by filing. In those cases, it is unfair and inappropriate to place additional burdens on the filing process that are not required by statute, and which might result in the rejection of a document for filing. The consequences of rejecting such a document can be dire. Minn. Stat. §514.11. Cf. AAA Electric & Neon Service, Inc. v. R. Design Co., 364 N.W.2d 869 (Minn. App. 1985) (bar by not meeting filing requirement of action in a timely manner). The Advisory Committee believes it is not appropriate to reject such documents for filing in any event, but this rule now makes it clear that a certificate of representation and parties is not required in actions commenced by filing. For the convenience of the parties, frequently encountered examples of actions that are commenced by filing include mechanic's lien actions, quiet title actions, and actions to register title to real property (Torrens actions). This amendment is intended to remove the requirement that a certificate of representation and parties accompany the complaint for filing. It is not intended to prevent courts from obtaining this information, if still needed, after process has been served and the parties' representation known.

Rule 114.04 Selection of ADR Process

* * *

(b) If the parties cannot agree on the appropriate ADR process, the timing of the process, or the selection of neutral, or if the court does not approve the parties' agreement, the court shall schedule a telephone or in-court conference of the attorneys and any unrepresented parties within thirty days after the due date for filing informational statements pursuant to Rule 111.02 to discuss ADR and other scheduling and case management issues. Except as otherwise provided in Minn. Stat. § 604.11, If no agreement on the ADR process is reached or if the judge court disagrees with the process selected, the judge court may order the parties to utilize one of the non-binding processes, or may find that ADR is not appropriate; provided that any ADR process shall not be approved where it amounts to a sanction on a non-moving party.

* * *

(d) Except as otherwise provided in Minn. Stat. § 604.11, Upon motion by any party, or on its own initiative, the court may, at any time, issue an order for any ADR process.

ADVISORY COMMITTEE COMMENTS--1995 AMENDMENTS

Rule 114.04 is amended to make explicit what was implicit before. The rule mandates a telephone or in-court conference if the parties cannot agree on an ADR process. The primary purpose of that conference is to resolve the disagreement on ADR, and the rule now expressly says that. The court can, and usually will, discuss other scheduling and case management issues at the same time. The court's action following the conference required by this rule may be embodied in a scheduling order entered pursuant to Rule 111.03 of these rules.

FORM 111.02 INFORMATIONAL STATEMENT (Civil Matters--Non-Family)

State of Minnesota

District Court

COUNTY

JUDICIAL DISTRICT
CASE NO.

Case Type: _____

Plaintiff

and

**INFORMATIONAL STATEMENT
FORM**

Defendant

* * *

9. a. MEETING: Counsel for the parties met on _____ to discuss
case management issues. (Date)

* * *

- d. DEADLINE: The parties recommend that the ADR process be completed by
_____.
(Date)

* * *

10. Please list any additional information which might be helpful to the court when scheduling this letter matter.

RULE 115.09 Telephone Hearings.

When a motion is authorized by the court to be heard by telephone conference call, the moving party shall be responsible either to initiate the conference call or to comply with the court's instructions on initiation of the conference call. If necessary, adequate provision shall be made by the court for a record of the telephone hearing. No recording shall be made of any telephone hearing except the recording made as the official court record.

ADVISORY COMMITTEE COMMENTS - 19925 AMENDMENTS

* * *

[Insert the following as a new paragraph at the end of the existing Advisory Committee Comment]

Rule 115.09 has been amended to make it clear that telephone hearings may not be recorded unofficially by one party. This rule is consistent with the broader mandate of Gen. R. Prac. 4 which prohibits pictures or voice recordings except if taken as the official record for matters that are heard in court rather than by phone.

RULE 145.06 Structured Settlements

(c) Order that the original annuity policy be deposited with the court administrator, without affecting ownership, and the policy be returned to the owner of the policy when:

- (1) The minor reaches majority;
- (2) The terms of the policy have been fully performed; or
- (3) The minor dies, whichever occurs first.

ADVISORY COMMITTEE COMMENTS - 1992~~5~~ AMENDMENTS

* * *

Rule 145.06 is new. It establishes criteria for approval of structured settlements, and it requires the court to determine the cost of the annuity to insure that the periodic payments reflect a cost comparable to a reasonable settlement amount. Where a minor or incompetent receives a verdict representing future damages greater than \$100,000.00 and the guardian determines that a structured settlement pursuant to Minn. Stat. § 549.25 (1990) would be in the best interests of the minor or incompetent person, this rule shall apply to the implementation of the election pursuant to the statute. The amendment of the rule in 1995 (effective January 1, 1996) is intended to make it clear that it is important that the original annuity policy be retained by the court administrator, and that this is for the purpose of security, not establishing any ownership interest which might affect the tax treatment of the settlement.

Rule 304.02 The Party's Informational Statement

(a) **Timing.** Within 60 days after filing an action or, if a temporary hearing is scheduled within 60 days of the filing of the action, then within 60 days after a temporary hearing is initially scheduled to occur, whichever is later, each party shall submit, on a form to be available from the court (see ~~f~~Forms 9A & B appended to these rules), the information needed by the court to manage and schedule the case.

Rule 417.02 Annual Account

Every trustee subject to the ~~jurisdiction~~ continuing supervision of the district court shall file an annual account, duly verified, of the trusteeship with the court administration within 60 days after the end of each accounting year. . . .

ADVISORY COMMITTEE COMMENTS—1995 AMENDMENTS

Rule 417.02, as amended, refers to trustees subject to the continuing supervision of the district courts. The rule is intended to apply to all trusts subject to the continuing supervision of the district courts pursuant to Minn. Stat. § 501B.23 (1994), and the earlier reference to jurisdiction is deleted to avoid confusion, since all Minnesota trusts are subject to the district court's jurisdiction.

FORM 417.02 TRUSTEE'S ACCOUNTING

State of Minnesota

District Court

COUNTY

JUDICIAL DISTRICT
CASE NO.

Case Type: _____

**In the Matter of the Trust Created under Article
_____ of the Last Will of _____.**

ALTERNATIVE FOR INTER VIVOS TRUSTS:

**In the Matter of the Trust Created under
Agreement By and Between _____,
Settlor, and _____ and _____,
Trustees, dated _____.**

TRUSTEE'S ANNUAL ACCOUNT

	<u>Principal</u>	<u>Income</u>
Assets on Hand as of _____ (Schedule 1)	\$	\$
Increases to Assets:		
Interest (Schedule 2)	\$ 0.00	\$
Dividends (Schedule 3)	\$ 0.00	\$
Capital gains distributions (Schedule 4)	\$	\$ 0.00
Gains on sales and other dispositions (Schedule 5)	\$	\$ 0.00
Return of capital (Schedule 6)	\$	\$ 0.00
Other increases (Schedule 7)	\$	\$
Decreases to Assets:		
Losses on sales and other dispositions (Schedule 8)	(\$)	(\$.00)
Administration expenses (Schedule 9)	(\$)	(\$)
Taxes (Schedule 10)	(\$)	(\$)
Trustee fees	(\$)	(\$)
Attorney fees	(\$)	(\$)
Other decreases (Schedule 11)	(\$)	(\$)
Balance Before Distributions	\$	\$
Distributions to Beneficiaries (Schedule 12)	(\$)	(\$)
Principal and Income Balances	\$ 0.00	\$ 0.00
Total Assets on Hand as of _____ (Income plus principal) (Schedule 13)		\$ _____

Assets which realized a net income of less than 1 % of their inventory values or acquisition costs are listed on Schedule 14.

[FORM CONTINUED NEXT PAGE]

[NAME OF TRUST]

ASSETS ON HAND

[Beginning DATE]

Schedule 1

	Market Value as of [DATE]	Values at Cost or Basis <u>Principal</u>	Values at Cost or Basis <u>Income</u>
Cash or Cash Equivalents			
Checking account	\$	\$	\$
Savings account	\$	\$	\$
Money market account	\$	\$	\$
Stocks and Bonds			
Stocks	\$	\$	\$ 0.00
Corporate bonds	\$	\$	\$ 0.00
Municipal bonds	\$	\$	\$ 0.00
Real Estate	\$	\$	\$ 0.00
Other Assets			\$
Life insurance policies (cash value)	\$	\$	\$
Other assets	\$	\$	\$
Total Assets on Hand as of [Date]	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

Note: This schedule reflects assets on hand at the beginning of the period. Identify each asset thoroughly. Provide the name of the bank and account number for each account holding cash or cash equivalents. Provide the number of shares or par value of each security. Provide the address of each parcel of real estate.

[NAME OF TRUST]

INTEREST
Schedule 2

	<u>Income</u>
Checking account(s)	
1.	\$
2.	\$
Savings account(s)	
1.	\$
2.	\$
Corporate bonds	
1.	\$
2.	\$
3.	\$
Municipal bonds	
1.	\$
2.	\$
3.	\$
Other interest	
1.	\$
2.	\$
3.	\$
Total Interest	<u>\$ 0.00</u>

Identify each interest-producing asset. List each bank account by name and account number.
Identify each bond or other asset that pays interest.

[NAME OF TRUST]

DIVIDENDS
Schedule 3

	<u>Income</u>
Stocks	
1	\$
2	\$
3	\$
4	\$
5	\$
6	\$
7	\$
8	\$
9	\$
10	\$
11	\$
12	\$
13	\$
14	\$
15	\$
Total Dividends	<u>0.00</u>

Identify each security that paid dividends.

[NAME OF TRUST]

CAPITAL GAINS DISTRIBUTIONS
Schedule 4

Principal

Capital gains distributions:

1	\$
2	\$
3	\$
4	\$
5	\$
6	\$
7	\$
8	\$
9	\$
10	\$
11	\$
12	\$
13	\$
14	\$

Total Capital Gains Distributions	<u>0.00</u>
-----------------------------------	-------------

Identify each security that paid a capital gains distribution.

[NAME OF TRUST]

GAINS ON SALES AND OTHER DISPOSITIONS
Schedule 5

		<u>Principal</u>
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$_____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$_____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$_____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$_____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$_____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$_____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$_____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$_____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$_____)	\$ 0.00
Total Gains		\$ <u>0.00</u>

[NAME OF TRUST]

RETURN OF CAPITAL
Schedule 6

Principal

Return of capital:

1.	\$
2.	\$
3.	\$
4.	\$
5.	\$
6.	\$
7.	\$
8.	\$
9.	\$
10.	\$
11.	\$
12.	\$
13.	\$
14.	\$

Total Return of Capital

0.00

Identify each security that paid a return of capital.

[NAME OF TRUST]

OTHER INCREASES
Schedule 7

	<u>Principal</u>	<u>Income</u>
Securities added to trust by Settlor		\$ 0.00
1	\$	\$
2	\$	\$
3	\$	\$
4	\$	\$
5	\$	\$
6	\$	\$
7	\$	\$
8	\$	\$
9	\$	\$
Income transferred to principal	\$	\$ 0.00
Other increases:		
1	\$	\$
2	\$	\$
3	\$	\$
4	\$	\$
5	\$	\$
6	\$	\$
7	\$	\$
8	\$	\$
9	\$	\$
Total Other Increases	<u>0.00</u>	<u>0.00</u>

[NAME OF TRUST]

LOSSES ON SALES AND OTHER DISPOSITIONS
Schedule 8

		<u>Principal</u>
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$ _____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$ _____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$ _____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$ _____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$ _____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$ _____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$ _____)	\$ 0.00
Sale of _____ shares of _____:		
Proceeds received	\$	
Less cost or basis	(\$ _____)	\$ 0.00
Total Losses		\$ <u>0.00</u>

ADMINISTRATIVE EXPENSES

Schedule 9

15

TAXES
Schedule 10

Note: The portion of fiduciary income tax allocated to capital gains is charged against principal. The portion of foreign dividend tax is allocated to income.

[NAME OF TRUST]

OTHER DECREASES
Schedule 11

	<u>Principal</u>	<u>Income</u>
Income transferred to principal	\$	\$ 0.00
Other decreases:		
1.	\$	\$
2.	\$	\$
3.	\$	\$
4.	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$
8.	\$	\$
9.	\$	\$
10.	\$	\$
Total Other decreases	<u>0.00</u>	<u>0.00</u>

[NAME OF TRUST]

DISTRIBUTIONS TO BENEFICIARIES
Schedule 12

	<u>Principal</u>	<u>Income</u>
Name of each beneficiary and date and description of distribution:		
1.	\$	\$
2.	\$	\$
3.	\$	\$
4.	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$
8.	\$	\$
9.	\$	\$
10.	\$	\$
11.	\$	\$
12.	\$	\$
13.	\$	\$
14.	\$	\$
15.	\$	\$
Total Distributions to Beneficiaries	<u>0.00</u>	<u>0.00</u>

[NAME OF TRUST]

ASSETS ON HAND
[ending DATE]
Schedule 13

	<u>Market Value</u> <u>as of [DATE]</u>	<u>Values at Cost</u> <u>or Basis</u> <u>Principal</u>	<u>Values at Cost</u> <u>or Basis</u> <u>Income</u>
Cash or Cash Equivalents			
Checking account	\$	\$	\$
Savings account	\$	\$	\$
Money market account	\$	\$	\$
Stocks and Bonds			
Stocks	\$	\$	\$ 0.00
Corporate bonds	\$	\$	\$ 0.00
Municipal bonds	\$	\$	\$ 0.00
Real Estate	\$	\$	\$ 0.00
Other Assets			
Life insurance policies (cash value)	\$	\$	\$
Other assets	\$	\$	\$
Total Assets on Hand as of [Date] _____	<u>0.00</u>	<u>\$.</u>	<u>\$.</u>

Note: This schedule reflects assets on hand at the end of the accounting period. Identify each asset thoroughly. Provide the name of the bank and account number for each account holding cash or cash equivalents. Provide the number of shares or par value of each security. Provide the address of each parcel of real estate.

[NAME OF TRUST]

ASSETS WHICH REALIZED A NET INCOME OF
LESS THAN 1% OF THEIR INVENTORY
VALUES OR ACQUISITION COSTS
Schedule 14

Description of Asset	<u>Amount of Net Income Realized</u>	<u>Income as Percentage of Cost/Basis</u>
1.	\$	%
Reason why this asset should be retained:		
2.	\$	%
Reason why this asset should be retained:		
3.	\$	%
Reason why this asset should be retained:		
4.	\$	%
Reason why this asset should be retained:		
5.	\$	%
Reason why this asset should be retained:		

Under penalties of perjury, we have read this Annual Account and we know or believe its contents are true and correct.

Trustee
Address:

Date

Trustee
Address:

Date

Notarial Stamp or Seal (or Other Title or Rank)

Signed and sworn to (or affirmed) before
me on (date) _____
by _____
and _____,
Trustees.

Signature of Notary Public or Other
Official

RULE 702 Bail

(a) **Approval of Bond Procurers Required.** No person shall engage in the business of procuring bail bonds, either cash or surety, for persons under detention until an application is approved by a majority of the judges of the judicial district. The application form shall be obtained from the court administrator. The completed application shall then be filed with the administrator stating the information requested. The approval granted under this rule may be revoked or suspended by the chief judge of the judicial district or the chief judge's designee and such revocation or suspension shall apply throughout the State of Minnesota.

* * *

(h) **Bonding Privilege Suspension.** A failure to make payment on a forfeited bond within ninety (90) days as above provided shall automatically suspend the surety and its agent from writing further bonds, ~~and~~ such suspension shall apply throughout the State of Minnesota and shall continue until for a period of thirty (30) days from the date the principal amount of the bond is deposited in cash with the court administrator. ~~The suspension of bonding privileges under this rule shall apply throughout the State of Minnesota.~~

ADVISORY COMMITTEE COMMENTS--1992~~5~~ AMENDMENTS

This Rule is derived from the 4th Dist. R. 8.02. Pretrial release is governed by Minn. R. Crim. P. 6, and this rule supplements the provisions of that rule. The Task Force believes that specific, written standards relating to the issuance and forfeiture of bail bonds would be useful to practitioners, courts, and to those issuing bonds.

The Minnesota Supreme Court Advisory Committee on Rules of Criminal Procedure recommended that this local rule be incorporated in the General Rules of Practice for the District Courts for uniform statewide application and the Task Force concurs in that recommendation.

Rule 702(h) was amended in 1993, effective January 1, 1994, to establish statewide suspension of bonding privileges for a surety bond and a surety's agent in the event of failure to make payment on a forfeited bond. This rule is necessary to ensure that irresponsible sureties not be allowed to move from district to district.

The power to revoke bail bonding privileges must be exercised sparingly. Courts considering this action should give consideration to the appropriate procedure and the giving of notice and an opportunity to be heard if such process is due the bond person. See, e.g., In re Cross, 617 A.2d 97, 100-02 (R.I. 1992) (show cause hearing procedure based on probable cause, with clearly defined burden of proof, not inherently unconstitutional); American Druggists Ins. Co. v. Bogart, 707 F.2d 1229, 1234-36 (11th Cir. 1983) (corporate surety authorized by Secretary of Treasury has right under U.S. Constitution to present bonds to court for approval).