

FILED

February 8, 2022

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM04-8001

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

The Minnesota State Bar Association (MSBA) filed a petition to amend the Minnesota Rules of Civil Procedure, specifically Rule 30.02(f), stating that the proposed amendments to Rule 30.02 would bring the rule into conformity with the corresponding federal rule, Fed. R. Civ. P. 30(b)(6), and would improve the practice of law in Minnesota. Specifically, Rule 30.02(f), which governs depositions of an organization, would be amended to require that the serving party and the organization to be deposed meet and confer before or promptly after the notice of deposition or subpoena is served. We opened a public comment period but received no comments. Having carefully considered the petition of the MSBA, a clarifying letter from the MSBA dated December 1, 2021, and the reasons for the proposed amendments, we conclude that the petition of the MSBA should be granted.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the attached amendments to the Rules of Civil Procedure are prescribed and promulgated as shown below. The amendments are effective as of July 1, 2022, and shall apply to all cases pending on, or filed on or after, the effective date, unless the district court concludes that application of the rule as

amended in a case pending as of the effective date is not feasible or would work an injustice in the pending matter. *See* Minn. R. Civ. P. 86.01(b).

Dated: February 8, 2022

BY THE COURT:

A handwritten signature in black ink, appearing to read "Lorie S. Gildea". The signature is written in a cursive style with a large initial "L".

Lorie S. Gildea
Chief Justice

AMENDMENTS TO THE 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.]

30.02 Notice of Examination; General Requirements; Special Notice; Non-Stenographic Method of Recording; Production of Documents and Things; Deposition of Organization; Depositions by Telephone

(a) Notice.

A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the name and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(b) Notice of Method of Recording.

The party taking the deposition shall state in the notice the method by which the testimony shall be recorded. Unless the court orders otherwise, it may be recorded by sound, sound-and-visual, or stenographic means, the party taking the deposition shall bear the cost of the recording. Any party may arrange for a transcription to be made from the recording of a deposition taken by non-stenographic means.

(c) Additional Recording Method.

With prior notice to the deponent and other parties, any party may designate another method to record the deponent's testimony in addition to the method specified by the person taking the deposition. The additional record or transcript shall be made at that party's expense unless the court otherwise orders.

Any deposition pursuant to these rules may be taken by means of simultaneous audio and visual electronic recording without leave of court or stipulation of the parties if the deposition is taken in accordance with the provisions of this rule.

In addition to the specific provisions of this rule, the taking of video depositions is governed by all other rules governing the taking of depositions unless the nature of the video deposition makes compliance impossible or unnecessary.

(d) Role of Officer.

Unless otherwise agreed by the parties, a deposition shall be conducted before an officer appointed or designated under Rule 28 and shall begin with a statement on the record by the officer that includes (A) the officer's name and business address; (B) the date, time, and place of the deposition; (C) the name of the deponent; (D) the administration of the oath or affirmation to the deponent; and (E) an identification of all persons present. If the deposition is recorded other than stenographically, the officer shall repeat items (A) through (C) at the beginning of each unit of recorded tape or other

recording medium. The appearance or demeanor of deponents or attorneys shall not be distorted through camera or sound-recording techniques. At the end of the deposition, the officer shall state on the record that the deposition is complete and shall set forth any stipulations made by counsel concerning the custody of the transcript or recording and the exhibits, or concerning other pertinent matters.

(e) Production of Documents.

The notice to a party deponent may be accompanied by a request made in compliance with Rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of Rule 34 shall apply to the request.

(f) ~~Deposition of~~ Notice or Subpoena Directed to an Organization.

~~A party may in the party's~~ In its notice or and in a subpoena, a party may name as the deponent a public or private corporation, ~~or a partnership, an association, or a~~ governmental agency, or other entity and must describe with reasonable particularity the matters ~~on which for~~ examination is requested. ~~In that event, the~~ named organization so ~~named shall~~ must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; and it may set out forth, for ~~each person designated,~~ the matters on which the each person designated will testify. Before or promptly after the notice or A subpoena is served, the serving party and the organization must confer in good faith about the matters for examination. A subpoena must shall advise a non-party organization of its duty to confer with the serving party and to make such a designation. The persons ~~so~~ designated shall must testify ~~as to matters about information~~ known or reasonably available to the organization. This ~~provision~~ paragraph (f) does not preclude ~~taking~~ a deposition by any other procedure ~~authorized in~~ allowed by these rules.

(g) Telephonic Depositions.

The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or other remote electronic means. For the purposes of this rule and Rules 28.01, 37.01(a), 37.02(a) and 45.03, a deposition taken by such means is taken in the district and at the place where the deponent is to answer questions.

(Amended effective March 1, 1994; amended effective January 1, 1997; amended effective January 1, 2006.)