

STATE OF MINNESOTA  
IN SUPREME COURT  
ADM09-8006



**IN RE AMENDMENTS TO THE MINNESOTA  
RULES OF CIVIL APPELLATE PROCEDURE**

O R D E R

Over the past 25 years, the supreme court has issued more than 200 opinions reflecting that a new member of the court, “not having been a member of this court at the time of submission, took no part in the consideration or decision of this case.” *See e.g., Winters v. Kiffmeyer*, 650 N.W.2d 167, 174 (Minn 2002). Rule 134.08 of the Minnesota Rules of Civil Appellate Procedure, which was last amended in 1983, concerns submissions when a member of an appellate court is not present. That rule provides, in relevant part, that “[w]hen, during the consideration of a case, there is a change in the personnel of the court, the case shall be deemed submitted to the new member or members on the record and briefs.” In order to better conform the rule with longstanding practice, this part of Rule 134.08 is amended to be expressly permissive.

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

IT IS HEREBY ORDERED that the attached amendment to the Minnesota Rules of Civil Appellate Procedure is prescribed and promulgated, effective as of the date of this order.

Dated: July 3, 2024

BY THE COURT:

A handwritten signature in black ink that reads "Natalie E. Hudson".

Natalie E. Hudson  
Chief Justice

**AMENDMENTS TO THE MINNESOTA  
RULES OF CIVIL APPELLATE 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.]*

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**Rule 134. Oral Argument**

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**134.08. Submission When Member of Appellate Court Not Present**

Except in exigent circumstances, the oral argument shall be heard in the Court of Appeals before the full panel to which the case has been assigned or in the Supreme Court before the court sitting en banc. Whenever any member of the appellate court is not present at the oral argument of a case, the case shall be deemed submitted to that member of the court on the record and briefs. When, during the consideration of a case, there is a change in the personnel of the court, the case ~~shall~~ may be deemed submitted to the new member or members on the record and briefs.