

FILED

May 13, 2019

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA
IN SUPREME COURT

ADM09-8009

**ORDER PROMULGATING AMENDMENTS TO THE
GENERAL RULES OF PRACTICE
FOR THE DISTRICT COURTS**

The Advisory Committee for the General Rules of Practice for the District Courts filed a report on September 27, 2018, recommending several amendments to the General Rules of Practice. These recommendations included proposed amendments to the rules applicable in Housing Court in Hennepin and Ramsey Counties and amendments to several other rules to clarify procedures, correct cross-references and citations in the rules, and make minor housekeeping amendments.

We opened a public comment period. Written comments that supported and opposed the proposed amendments to the Housing Court rules were filed; no comments addressing the other proposed amendments to the rules were filed. We held a hearing on January 15, 2019, at which the Honorable Stephen M. Halsey, chair of the Advisory Committee for the General Rules of Practice, and representatives of three organizations—the Minneapolis Public Housing Authority, HOME Line, and Mid-Minnesota Legal Aid—spoke.

We have carefully considered the recommended amendments and the comments regarding the proposed amendments. Based on that review, we adopt the committee's recommended amendments to several rules that clarify procedures and update the rules. We also adopt the recommended amendments to the Housing Court rules, in part, to update

those rules. But in the absence of strong support for the proposed amendment to Rule 603 and, in light of our existing precedent, we decline to amend Rule 603. *See, e.g., Save Our Creeks v. City of Brooklyn Park*, 699 N.W.2d 307, 309 (Minn. 2005) (“It is well settled under Minnesota common law that a corporation must be represented by an attorney in legal proceedings.”).

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

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the General Rules of Practice for the District Courts are prescribed and promulgated to be effective as of July 1, 2019, and shall apply to all cases pending on, or filed on or after, the effective date.

2. The Advisory Committee’s recommendation to amend Form 117 to provide information about potential complex cases is referred to the State Court Administrator for consideration and decision, *see* Minn. Gen. R. Prac. 104(b) (noting that Form 117 is “promulgated by the state court administrator”).

3. The Advisory Committee comments are included for convenience and do not reflect court approval of the comments.

Dated: May 13, 2019

BY THE COURT:



Lorie S. Gildea
Chief Justice

STATE OF MINNESOTA

IN SUPREME COURT

ADM09-8009

MEMORANDUM

PER CURIAM.

The Advisory Committee for the General Rules of Practice for the District Courts recommends several amendments to Rules 601–612 of the General Rules of Practice, which apply to housing court proceedings in Hennepin and Ramsey Counties. *See* Minn. Gen. R. Prac. 601. Included among these recommendations is a proposed amendment to Rule 603 to clarify the scope of non-attorney agent participation in proceedings in Housing Court. The committee points out that the two judicial districts governed by this rule, Hennepin and Ramsey Counties, have conflicting approaches to the rule, and materials submitted during the public comment period indicate that Housing Court in Hennepin County allows non-attorney agents to appear on behalf of landlords, and Housing Court in Ramsey County requires an attorney to appear on a landlord’s behalf.

The committee’s recommended amendment to Rule 603 was supported by 10 members and opposed by 5 members. The Minnesota Multi-Housing Association and the Minneapolis Public Housing Authority support the committee’s recommended amendment. HOME Line (including a former attorney for this tenant advocacy organization) and Mid-Minnesota Legal Aid oppose the committee’s recommended amendment. On two occasions, the Second and Fourth Judicial Districts solicited input on the use of non-attorney agents from Housing Court stakeholders and reported that the

majority of responding stakeholders, 58 percent, supported allowing non-attorney agents to appear in Housing Court. But the districts also acknowledged “that there is not agreement from stakeholders” on this issue.

We have the inherent authority to regulate the bar and determine who is authorized to practice law in Minnesota. *See, e.g., In re Conservatorship of Riebel*, 625 N.W.2d 480, 481 n.3 (Minn. 2001) (stating that “legislative enactments concerning the practice of law” are recognized “as a matter of comity as long as they are reasonable and in harmony with [the] court’s exercise of its authority to regulate the bar”). The record before us on the use of non-attorney agents appearing in Housing Court on behalf of landlords lacks strong support for the proposed amendment to Rule 603 of the General Rules of Practice for the District Courts. We therefore decline to adopt the recommended amendment to that rule.

AMENDMENTS TO THE GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS

[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 14. E-FILING AND E-SERVICE

* * *

Rule 14.06 Sealed and Confidential Documents

(a) Request to Submit Document for In Camera Review. Any interested person must seek and obtain advance approval from the court by motion, with notice thereof ~~the request~~ to all parties, to submit a document to the court for in camera review. The motion must be filed and served electronically.

(b) Process When Submission for In Camera Review Granted. A document submitted for in camera review as permitted by the court under part (a) of this rule shall be submitted to the court outside the E-Filing System by either:

(1) causing the document to be conventionally mailed or hand-delivered to the presiding judge or judicial officer, or

(2) upon approval of the presiding judge or judicial officer, transmitting the document to the presiding judge or judicial officer, via e-mail, as an attachment to an e-mail address as directed by the presiding judge or judicial officer. Any document submitted for in camera review must be clearly labeled "For In Camera Review" and, unless otherwise ordered by the court, shall be sealed and preserved as a court exhibit.

(c) Filer's Duty to Designate as Confidential or Sealed. A Registered User electronically filing a document that is not accessible to the public in whole or in part under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules or court order, is responsible for designating that document as confidential or sealed in the E-Filing System before transmitting it to the court.

(d) Correction of Designation by the Court. Upon review, the court may modify the designation of any document incorrectly designated as sealed or confidential and shall provide prompt notice of any such change to the Registered User who filed the document. A Registered User must seek advance approval from the court to transmit a document for filing designated as sealed or confidential if that document is not already inaccessible to the public under the Rules of Public Access to Records of the Judicial Branch or other applicable law, court rules, or court order.

(e) Filing Sealed or Confidential Document in Paper Form When Not Seeking In Camera Review. A document to be filed under seal or as confidential may be filed in paper form if required or permitted by the court. A motion to file a document in paper form under seal or as confidential must be filed and served electronically.

Advisory Committee Comment—2019 Amendment

Rule 14.06 is amended in 2019 to improve readability and clarify the process for submitting motions under the rule. An "in camera" review is defined as "[i]n the judge's private chambers" or "[i]n the courtroom with all spectators excluded." Black's Law Dictionary 763 (7th ed. 1999).

RULE 105. WITHDRAWAL OF COUNSEL

After a lawyer has appeared for a party in any action, withdrawal will be effective only if written notice of withdrawal is served on all parties who have appeared, or their lawyers if represented by counsel, and is filed with the court administrator if any other document in the action has been filed. The notice of withdrawal shall include the address, email address, if known, and phone number where the party can be served or notified of matters relating to the action.

Withdrawal of counsel does not create any right to continuance of any scheduled trial or hearing.

Advisory Committee Comment—2019 Amendment

Rule 105 is amended in 2019 to clarify that a withdrawing attorney is to provide the party's email address, if known, so that the court can efficiently notify the party.

RULE 106. HEARING ON MOTION TO REMOVE JUDGE FOR ACTUAL PREJUDICE OR BIAS

All motions for removal of a judge, referee, or judicial officer, on the basis of actual prejudice or bias shall be heard in the first instance by the judge sought to be removed. If that judge denies the motion, it may subsequently be heard and reconsidered by the Chief Judge of the district or another judge designated by the Chief Judge upon a motion filed and served within 7 days of the judge's order.

Advisory Committee Comment—2019 Amendment

Rule 106 is amended in 2019 to establish a deadline for seeking review by the Chief Judge (or designee) of a judge's decision denying a motion for removal of a judge for cause. The absence of a deadline hinders efficient case processing and the importance of the recusal or disqualification issue merits prompt resolution.

TITLE IV. RULES OF FAMILY COURT PROCEDURE

* * *

Rule 302.01 Commencement of Proceedings

(a) Methods of Commencement. Family Court Actions shall be commenced by service of a summons and petition or other means authorized by statute upon the person of the other party. Commencement can be accomplished by the following means:

- (1) *Personal Service.* The summons and petition may be served upon the person of the party to be served.
- (2) *Admission/~~Acknowledgment~~ or Waiver of Service.* Service may be accomplished when the party to be served signs an admission of service or ~~acknowledges-waives~~ service as permitted in Minn. R. Civ. P. 4.05.
- (3) *Alternate Means.* Service of the summons and petition may be by alternate means as authorized by statute.

(4) *Publication.* Service of the summons and petition may be made by publication only upon an order of the court. If the respondent subsequently is located and has not been served personally or by alternate means, personal service shall be made before the final hearing.

(5) *Joint Petition.* The filing of a joint petition as provided in section (c) of this rule.

* * *

Advisory Committee Comment—2019 Amendment

Rule 302.01(a) is amended to reflect the amendment of Rule 4.05 of the Rules of Civil Procedure, effective July 1, 2018, to create a new means of obtaining waiver of service under the rule. A new subsection (5) is added to reflect that an action can be commenced by joint petition as provided in Rule 302.01(c).

* * *

RULE 353. TYPES OF PROCEEDINGS

Rule 353.01 Types of Proceedings

* * *

Subd. 2. Permissive Proceedings.

* * *

(c) Change of Venue. Upon motion by a party for a change of venue, a child support magistrate shall issue the following order:

(1) Upon consent of all parties, or the failure of any party to file a timely objection, a child support magistrate may issue an order changing venue. The court administrator shall forward the court file to the county that has been granted venue.

(2) If any party disputes a motion to change venue, the child support magistrate shall issue an order referring the matter to district court and the court administrator shall schedule the matter for hearing. The court administrator shall transmit notice of the date, time, and location of the hearing to all parties. Notice shall be sent in accordance with Rule 14 to all parties who have agreed to or are required to accept electronic service, and to all other parties in accordance with Rule 13 of these Rules and Rule 77.04 of the Rules of Civil Procedure.

* * *

Advisory Committee Comment—2019 Amendment

Rule 353.01, subd. 2(c), is amended in 2019 to clarify that unopposed motions for change of venue do not need to be referred for hearing before a district court judge but may be granted by the child support magistrate.

RULE 355. METHODS OF SERVICE

* * *

Rule 355.02 Types of Service

Subdivision 1. Personal Service.

* * *

(c) Alternative Personal Service.

~~(1) — Acknowledgement by Mail. As an alternative to personal service, service may be made by U.S. mail if acknowledged in writing. Any party attempting alternative personal service shall include two copies of a notice and acknowledgment of service by mail conforming substantially to Form 22 set forth in the Minnesota Rules of Civil Procedure, along with a return envelope, postage prepaid, addressed to the sender. Any person served by U.S. mail who receives a notice and acknowledgment form shall complete the acknowledgment part of the form and return one copy of the completed form to the serving party. If the serving party does not receive the acknowledgment form within 20 days, service is not valid upon that party. The serving party may then serve the summons and complaint by any means authorized under this subdivision. The child support magistrate may order the costs of personal service to be paid by the person served, if such person does not complete and return the notice and acknowledgment form within 20 days.~~

(1) Admission or Acknowledgment or Waiver of Service. Service may be accomplished when the party to be served signs an admission or waives service as provided in Minn. R. Civ. P. 4.05.

* * *

Advisory Committee Comment—2019 Amendment

Rule 355, subdivision (c)(1), is amended to reflect the amendment of Rule 4.05 of the Rules of Civil Procedure, effective July 1, 2018, to create a new means of obtaining consent to service under the rule. The former rule’s reference to “service by mail” is potentially misleading, as the procedure set forth in the rule only accomplished service if the party to be served returned the acknowledgement of service.

RULE 357. LEGAL REPRESENTATION AND APPOINTMENT OF GUARDIAN AD LITEM

* * *

Rule 357.03 Appointment of Attorney at Public Expense

Unless a party voluntarily waives the right to counsel, the child support magistrate shall appoint an attorney at public expense for a party who requests an attorney and who cannot afford to retain an attorney when the case involves:

- (a) establishment of parentage; or
- (b) contempt proceedings in which incarceration of the party is a possible outcome of the proceeding.

Pursuant to Minn. Stat. § 257.69 (2000~~2018~~), a court-appointed attorney shall represent a party only with respect to ~~all~~ issues necessary for the initial establishment of parentage, ~~including child support, custody, parenting time, and name of the child.~~

Advisory Committee Comment—2019 Amendment

Rule 357.03 is amended to reflect the 2012 amendment of Minn. Stat. § 257.69, to limit appointments of counsel to the initial establishment of parentage. Custody, parenting time, and name of child, to the extent agreed upon or defaulted, can be included in the initial establishment of parentage. Otherwise, under Rule 353.01, subd. 3(g), evidentiary hearings to establish custody, parenting time, or name of the child under Minn. Stat. chapter 257 must be held outside the expedited process.

RULE 363. DEFAULT

Rule 363.02 Procedure

The initiating party may proceed by default if:

- (a) all noninitiating parties have been properly served with the summons or notice of motion;
- (b) the summons or notice of motion did not contain a hearing date; and
- (c) there has been no written answer or return of the request for hearing form from any party within ~~twenty (20)~~21 days from the date the last party was served.

The initiating party shall file an order with the court within 45 days from the date the last noninitiating party was served with the summons and complaint or notice of motion and motion. The initiating party shall also file with the court a current affidavit of default and a current affidavit of non-military status. If an order is not filed with the court within 45 days, the court administrator shall mail a notice to all parties that the matter shall be scheduled for hearing unless the initiating party files an order along with all necessary documents within ~~14~~14 days from the date notice was mailed. If the initiating party fails to file the necessary documents within the allotted ~~14~~14 days, the court administrator shall set the matter on for hearing and serve upon all parties and the county agency by U.S. mail at least 14 days before the scheduled hearing, notice of the date, time, and location of the hearing. The notices shall be sent by electronic means in accordance with Rule 14 to any party who has agreed to or is required to accept electronic service under Rule 14.

Advisory Committee Comment—2019 Amendment

Rules 372.05, subd. 5, and 363.02 and .03 are amended in 2019 to harmonize the rules and create a uniform 21-day period for responding to motions for child support.

Rule 363.03 Order Accepted

The child support magistrate may sign an order filed pursuant to Rule 363.02 if the child support magistrate finds that it is supported by law, is reasonable and fair, and that each

noninitiating party:

- (a) was properly served with the summons and complaint or notice of motion and motion;
- (b) was notified of the requirement to either serve and file a written answer or return the request for hearing form within ~~twenty (20)~~21 days of service of the summons and complaint or notice of motion and motion; and
- (c) failed to serve and file a written answer or return the request for hearing form within ~~twenty (20)~~21 days from the date of service.

Advisory Committee Comment—2019 Amendment

Rules 372.05, subd. 5, and 363.02 and .03 are amended in 2019 to harmonize the rules and create a uniform 21-day period for responding to motions for child support.

RULE 372. MOTIONS TO MODIFY, MOTIONS TO SET SUPPORT, AND OTHER MATTERS

* * *

Rule 372.05 Response

Subdivision 1. Hearing Date Included in the Notice of Motions to Modify and Motions to Set Support. Inclusion of a hearing date does not preclude a noninitiating party from serving and filing a responsive motion or counter motion. A noninitiating party may serve upon all parties a responsive motion or counter motion along with a supporting affidavit at least ~~fourteen (14)~~ 14 days ~~prior to before~~ the hearing. The service and filing of a responsive motion or counter motion does not preclude the hearing from going forward and the child support magistrate may issue an order based upon the information in the file or evidence presented at the hearing if a noninitiating party fails to appear at the hearing.

Subd. 2. Hearing Date Not Included in the Notice of Motions to Modify and Motions to Set Support. If the notice of motion does not contain a hearing date, within ~~fourteen (14)~~ 21 days from service of the motion, a noninitiating party shall either:

- (a) request a hearing by returning the request for hearing form to the initiating party;
or
- (b) serve upon all other parties a responsive motion or counter motion.

The initiating party shall schedule a hearing upon receipt of a request for hearing form, a responsive motion, or counter motion. Failure of the noninitiating party to request a hearing, to serve a responsive motion, or to appear at a scheduled hearing shall not preclude the matter from going forward, and the child support magistrate may issue an order based upon the information in the file or the evidence presented at the hearing.

Subd. 3. Other Motions. Except as otherwise provided in these rules, all responsive motions shall be served upon all parties at least ~~five (5)~~ 7 days ~~prior to before~~ the hearing. A responsive motion raising new issues shall be served upon all parties at least ~~ten (10)~~ 14 days ~~prior to before~~ the hearing.

Advisory Committee Comment—2019 Amendment
Rules 372.05, subd. 5, and 363.02 and .03 are amended in 2019 to harmonize the rules and create a uniform 21-day period for responding to motions for child support.

TITLE VII
HOUSING COURT RULES—HENNPIN AND RAMSEY COUNTIES

* * *

RULE 602. HOUSING COURT REFEREE

The housing court referee may preside over all actions brought under Minnesota Statutes, Chapter 504B, criminal and civil proceedings related to violations of any health, safety, housing, building, fire prevention or housing maintenance code, escrow of rent proceedings, landlord and tenant damage actions, and actions for rent and rent abatement, ~~unless the matter has been removed for hearing before a judge.~~

A party may request that a judge hear a case by filing such request in writing with the court administrator at least 1 day ~~prior to~~ before the scheduled hearing date.

* * *

RULE 604. COMPLAINT

(a) Contents of Complaint. The plaintiff in an eviction action ~~unlawful detainer~~ case shall file with the court administrator a complaint containing the following:

- (1) A description of the premises including a street address;
- (2) The legal owner of the property or other person entitled to possession of the premises;
- (3) A statement of how plaintiff has complied with Minnesota Statutes, section 504B.181, by written notice to the defendant, by posting or by actual knowledge of the defendant;
- (4) The facts which authorize recovery; and,
- (5) A request for return of possession of the property.

* * *

RULE 605. RETURN OF SUMMONS

All summons shall be served in the manner required by Minnesota Statutes, Chapter 504B, and the affidavit of service shall be filed with the court by 3:00 o'clock p.m. 3 business days ~~prior to~~ before the hearing or the matter may be ~~dismissed~~ ~~stricken~~. The affidavit must contain the printed or typed name of the person who served the summons.

* * *

RULE 607. CALENDAR CALL

At the first call of the calendar the parties shall specify whether the case is a default or for trial, and if for trial, whether by court or jury. ~~Proposed Order forms will be available at the hearing. It is the responsibility of the plaintiff to properly complete the proposed order prior to the case being called for hearing.~~ When each case is called for hearing, the defendant shall be asked whether the defendant admits or denies the charges in the complaint. ~~Matters involving unlawful ouster or lockouts, utility shutoffs and other emergency relief, and motions for temporary restraining orders shall be heard first, then default cases shall be heard in their calendar order, followed by contested cases triable to the court without a jury.~~ If a jury trial is demanded, the jury fee must be paid before the jury is impaneled. ~~Contested cases shall be set for trial the same day as the initial hearing, if possible, or set on the first available calendar date.~~

RULE 608. WITHHELD RENT

In any eviction action ~~unlawful detainer~~ case where a tenant withholds rent in reliance on a defense, the defendant shall deposit forthwith into court an amount in cash, money order or certified check payable to the District Court equal to the rent due as the same accrues or such other amount as determined by the court to be appropriate as security for the plaintiff, given the circumstances of the case.

RULE 609. RESTITUTION-RECOVERY OF PREMISES

~~A writ of restitution-writ of recovery and order to vacate~~ shall issue within 24 hours after the entry of judgment, excluding Saturdays, Sundays and legal holidays, unless a stay authorized by law is specifically ordered by the court.

* * *

RULE 611. REVIEW OF REFEREE'S DECISION

* * *

(b) Stays. In civil cases, filing and service of a notice of review does not stay entry of judgment nor vacate a judgment if already entered unless the petitioner requests and the referee orders a bond, payment(s) in lieu of a bond, or waiver of bond and payment(s). The decision to set or waive a bond or payment(s) in lieu of bond shall be based upon Minn. R. Civ. App. P. 108.02 ~~108, subdivisions 1 & 5~~. A hearing on a bond or payment(s) in lieu of bond shall be scheduled before the referee, and the referee's order shall remain in effect unless a judge modifies or vacates the order.

In criminal cases, the execution of judgment or sentence shall be stayed pending review by the judge.

* * *