

Rule 136. Notice of Opinion; Judgment; Remittitur**136.01 Opinion****Subdivision 1. Written Opinion of the Court of Appeals.**

(a) The panel deciding the merits of an appeal also determines the form of the written opinion, which may be a precedential opinion, nonprecedential opinion, or order opinion.

(b) In determining the written form, the panel may consider all relevant factors, including whether the opinion:

- (1) establishes a new principle or rule of law or clarifies existing caselaw;
- (2) decides a novel issue involving a constitutional provision, statute, administrative rule, or rule of court;
- (3) resolves a significant or recurring legal issue;
- (4) applies settled principles or controlling precedent;
- (5) involves an atypical factual record or procedural history;
- (6) includes an issue pending before the United States Supreme Court or the Minnesota Supreme Court; or
- (7) warrants a particular form based on the parties' arguments, including, but not limited to, the parties' statements allowed by Rule 128.02, subdivision 1, paragraph (f).

(c) Nonprecedential opinions and order opinions are not binding authority except as law of the case, res judicata or collateral estoppel, but nonprecedential opinions may be cited as persuasive authority.

Subd. 2. Notice of Opinion. Upon the filing of an opinion which determines the matter, the clerk of the appellate courts shall transmit a copy to the attorneys for the parties, to self-represented parties, and to the trial court. The transmittal shall constitute notice of filing.

(Amended effective January 1, 1999; amended effective June 22, 2011; amended effective August 1, 2020.)

Advisory Committee Comment - 1998 Amendments

This rule is amended to remove any specific form requirements for Court of Appeals decisions. It embodies the different types of opinions issued by the court. The rule removes the prohibition against citation of order opinions in subd. 1(b) and treats both unpublished opinions and order opinions identically in the new subd. 1(b). It permits citation of these opinions in accordance with Minnesota Statutes 1996, section 480A.08, subdivision 3.

136.02 Entry of Judgment; Stay

Unless the parties stipulate to an immediate entry of judgment, the clerk of the appellate courts shall enter judgment pursuant to the decision or order not less than 30 days after the filing of the decision or order. The service and filing of a petition for review to, or rehearing in, the Supreme Court shall stay the entry of the judgment. Judgment shall be entered upon the denial of a petition for review or rehearing.

(Amended effective September 1, 2019.)

Comment - 1983

Judgment will not be entered for 30 days after the filing of a decision or order to allow the filing of a petition for review to, or rehearing in the Supreme Court. In the event either petition is made and denied, judgment will be entered immediately.

136.03 Remittitur

Subdivision 1. From the Court of Appeals. The clerk of the appellate courts shall transmit the judgment to the trial court administrator when judgment is entered. If the Supreme Court grants a petition for review, the clerk shall transmit the entire record on appeal, one copy of each brief on file, and the decision of the Court of Appeals to the Supreme Court unless the order granting review directs otherwise.

Subd. 2. From the Supreme Court. When judgment is entered, the clerk of the appellate courts shall either transmit the judgment to the trial court administrator or notify the Court of Appeals if the matter is remanded to the Court of Appeals with special instructions.

(Amended effective for appeals taken on or after January 1, 1992.)