

Rule 141. Recusal**141.01 Recusal in Supreme Court.**

(a) Motion. A motion seeking the recusal of a justice from a case pending before the court must be made in writing and must be filed and served as directed in Rule 125, Minnesota Rules of Civil Appellate Procedure. The motion, and any response, must comply with Rule 127, Minnesota Rules of Civil Appellate Procedure.

(b) Timing. Absent good cause demonstrating that the facts upon which the motion is based could not reasonably have been discovered sooner, the motion must be filed no later than 14 days after the filing of a notice of appeal or petition that initiates the case in the supreme court. In a case in which discretionary review is sought and the court grants review, the motion must be filed within 14 days of the date of the order of the court granting review. No hearing or oral argument shall be permitted on the motion.

A motion for recusal shall be decided promptly, but in any event within 3 days after the due date of any response, by the justice who is the subject of the motion, and shall be resolved by written order that, if denied, states the grounds upon which the motion is denied. The decision shall be filed with the clerk of the appellate courts.

(c) Review of Recusal Decision. If the motion is denied by the justice whose recusal is sought, the moving party may request review of that discretionary decision within 5 days of the filing of the order, by filing and serving a motion for review as directed in Minn. R. Civ. App. P. 125. A response, if any, must be filed and served within 3 days after service of the motion for review. The motion for review and response shall each be limited to 2,000 words, exclusive of the caption and signature. No further arguments or briefing shall be permitted with the motion for review.

Review shall be conducted by a three-member panel randomly selected from a list maintained by the clerk of the appellate courts of individuals designated as eligible to serve as acting justices solely for purposes of this rule. The panel shall file a binding written decision within 14 days after a motion for review is filed. No further review or reconsideration of the panel's decision will be permitted.

141.02 Recusal in Court of Appeals.

(a) Motion. A motion seeking the recusal of a member of a panel assigned to a particular case must be made in writing and must be filed and served as directed in Rule 125, Minnesota Rules of Civil Appellate Procedure. The motion, and any response, must comply with Rule 127, Minnesota Rules of Civil Appellate Procedure.

(b) Timing. Absent good cause demonstrating that the facts upon which the motion is based could not reasonably have been discovered sooner, the motion must be filed no later than 7 days after the notice of oral argument or nonoral conference or, as to newly named members of a panel, the subsequent notice of substitution or other change in the composition of the panel is issued. No hearing or oral argument shall be permitted on the motion.

A motion for recusal shall be decided promptly, but in any event within 3 days after the due date of any response, by the judge who is the subject of the motion. If the judge decides to recuse, a notice of substitution shall be issued. If the judge decides not to recuse, a written order stating the grounds upon which the motion is denied shall be filed with the clerk of the appellate courts.

(c) Review of Recusal Decision. If the motion is denied by the judge whose recusal is sought, the moving party may request review of that discretionary decision within 5 days of the filing of the order, by filing and serving a motion for review as directed in Minn. R. Civ. App. P. 125. A

response, if any, must be filed and served within 3 days after service of the motion for review. The motion for review and response shall each be limited to 2,000 words, exclusive of the caption and signature. No hearing or oral argument shall be permitted. The review shall be conducted by the chief judge and two randomly selected active judges of the court of appeals who are not designated to serve on the panel for the case in which review is sought. The panel shall file a binding written decision within 14 days after a motion for review is filed.

(Added effective July 1, 2016.)

141.03 Timing.

As permitted by Rule 6.01(a)(2) of the Rules of Civil Procedure, the time periods shorter than 7 days in this rule do not include intermediate Saturdays, Sundays, or legal holidays.

(Added effective January 1, 2020.)

Advisory Committee Comment - 2016 Amendments

Rule 141 is a new rule intended to establish a uniform and public process for considering motions for recusal or disqualification of an appellate justice or judge from participation in a pending appeal. This rule is only a rule of procedure - it is not intended to address, establish, or modify any grounds for recusal, as those issues are well outside the scope of any rule of procedure. All appellate judges are subject to the Minnesota Code of Judicial Conduct, which is a primary source of standards that may permit or require recusal.

The rule creates different procedures for recusal in the supreme court and court of appeals because of the fundamental differences in how the courts hear cases - the supreme court sits en banc, so recusal generally results in argument to a court of fewer members. In the court of appeals, recusal results more readily in assignment of a replacement judge to hear the case. The rule also recognizes that it would be wasteful to require a motion to recuse to be brought in the court of appeals before it is known which judges are assigned to hear an appeal. Because this assignment occurs relatively late in the process, the recusal motion requirement is not triggered until the notice of assignment is made.

The rule requires that a recusal request be decided promptly by the justice or judge receiving it, but sets an outer limit of three days after a response, if any, would be due under Rule 125. In many instances a decision on recusal could be properly rendered without any response being required, but in some cases, the court might be helped by the views of the other parties.