

Rule 512. Trial

(a) Subpoenas. Upon request of a party and payment of the applicable fee, the court administrator shall issue subpoenas for the attendance of witnesses and production of documentary evidence at the trial. Minn. R. Civ. P. 45 to the extent relevant for use of subpoenas for trial applies to subpoenas issued under this rule. A party who is unable to pay the fees for issuance and service of a summons may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01. An attorney who has appeared in an action may, as officer of the court, issue and sign a subpoena on behalf of the court where the action is pending.

(b) Testimony and Exhibits. Subject to part (d) of this rule, the judge shall hear testimony of the parties, their witnesses, and shall consider exhibits offered by the parties. The party offering an exhibit shall mark the party's name on the exhibit in a manner that will not obscure the exhibit. All exhibits will be returned to the parties at the conclusion of the trial unless otherwise ordered by the judge.

(c) Appearances. The parties shall appear in person, unless otherwise authorized by the court, and may be represented by a lawyer admitted to practice law before the courts of this state. A lawyer representing a party in conciliation court may participate in the trial to the extent and in the manner that the judge, in the judge's discretion, deems helpful.

A corporation, partnership, limited liability company, sole proprietorship, or association may be represented in conciliation court by an officer, manager, or partner, or an agent in the case of a condominium, cooperative or townhouse association, or may appoint a natural person who is an employee of the party or a commercial property manager to appear on its behalf or settle a claim in conciliation court. In the case of an officer, employee, commercial property manager, or agent of a condominium, cooperative or townhouse association, an authorized power of attorney, corporate authorization resolution, corporate by-law or other evidence of authority acceptable to the court must be filed with the claim or presented at the trial. The authority shall remain in full force and effect only as long as the case is active in conciliation court.

"Commercial property manager" means a corporation, partnership, or limited liability company or its employees who are hired by the owner of commercial real estate to perform a broad range of administrative duties at the property including tenant relations matters, leasing, repairs, maintenance, the negotiation and resolution of tenant disputes, and related matters. In order to appear in conciliation court, a property manager's employees must possess a real estate license under Minnesota Statutes, section 82.20, and be authorized by the owner of the property to settle all disputes with tenants and others within the jurisdictional limits of conciliation court.

(d) Evidence. The judge shall normally receive only evidence admissible under the rules of evidence, but in the exercise of discretion and in the interests of justice, may receive otherwise inadmissible evidence.

(e) Conciliation; Judgment. The judge may attempt to conciliate disputes and encourage fair settlements among the parties. If at the trial the parties agree on a settlement the judge shall order judgment in accordance with the settlement. If no agreement is reached, the judge shall hear, determine the cause, and order judgment. Written findings of fact or conclusions of law shall not be required.

(f) Failure of Defendant to Appear. If the defendant fails to appear at the trial, after being summoned as provided in these rules, the judge may hear the plaintiff and may:

(1) order judgment in the amount due the plaintiff, including fees, expenses and other items provided by law or by agreement, and where applicable, order return of property to the plaintiff or

(2) otherwise dispose of the matter.

(g) Failure of Plaintiff to Appear, Defendant Present. Should plaintiff fail to appear at the trial, but defendant appears, the judge may hear the defendant and may:

(1) order judgment of dismissal on the merits or order a dismissal without prejudice on the plaintiff's statement of claim, and where applicable, order judgment on defendant's counterclaim in the amount due the defendant, including fees, expenses and other items provided by law or by agreement, and where applicable, order return of property to the defendant, or

(2) otherwise dispose of the matter.

(h) Continuances. On proper showing of good cause, a continuance may be granted by the court on request of either party. The court may require payment of costs, absolute or conditional, not to exceed \$50, as a condition of such an order. On proper showing of good cause, requests for continuance that are made at least five days prior to the trial may be granted by the court administrator. Continuances granted by the court administrator shall be limited to one continuance per party.

(Amended effective August 1, 1994; amended effective January 1, 2007.)

1993 Committee Comment

Rule 512(a) authorizes the issuance of subpoenas to secure the attendance of witnesses and production of documentary evidence. The attendance of the parties is required by Rule 512(c).

The fee for issuing a subpoena is \$3. Minnesota Statutes 1990, section 357.021, subdivision 2, clause (3). A subpoena may be served by the sheriff, a deputy sheriff, or any other person not less than 18 years of age who is not a party to the action. Minn. R. Civ. P. 4.02 and 45.03. The sheriff's fees and mileage reimbursement rate for service of a subpoena are set by the county board. Minnesota Statutes 1990, section 357.09.

Witnesses are also entitled to attendance fees and travel fees, and, unless otherwise ordered by the court, a witness need not attend at the trial unless the party requesting the subpoena pays the witness one day's attendance and travel fees in advance of the trial. Minnesota Statutes 1990, section 357.22 (\$10 per day attendance fee, \$.24 per mile mileage fee, to and from courthouse, measured from witness's residence, if within state, or from state boundary line, if residence is outside the state); Minn. R. Civ. P. 45.03.

A witness who is not a party or an employee of a party and who is required to provide testimony or documents relating to a profession, business, or trade, or relating to knowledge, information, or facts obtained as a result of such profession, business or trade (e.g., a banker witness subpoenaed to produce bank records), is entitled to reasonable compensation for the time and expense involved in preparing for and giving such testimony or producing such documents. The party requesting the subpoena must make arrangements for such compensation prior to the trial. Minn. R. Civ. P. 45.06; D. Herr, R. Haydock, 2 Minnesota Practice, Civil Rules Annotated, section 45.14 (1985). With respect to any subpoena requiring the production of documents, the court may also require the party requesting the subpoena to pay the reasonable costs of producing the documentary evidence. Minn. R. Civ. P. 45.02.

Rule 512(e) does not preclude a court from providing the parties with a written explanation for the court's decision. Explanations, regardless of their brevity, are strongly encouraged. Explanations provide litigants with some degree of assurance that their case received thoughtful consideration, and may help avoid unnecessary appeals. Explanations may be inserted on Form

UCF-9, appended to the rules, in either the Order for Judgment section on the front of the form or in the Memorandum section on the reverse side of the court's copy of the form.

Advisory Committee Comment - 2007 Amendment

Rule 512(a) is amended to include express provision for issuance of subpoenas by attorneys admitted to practice before the Court. This provision is adopted verbatim from the parallel provision in the civil rules, Minn. R. Civ. P. 45.01(c), as amended effective Jan. 1, 2006. Although subpoenas may be used for pretrial discovery from non-parties in district court proceedings, conciliation court practice does not allow pretrial discovery, so this use of subpoenas is similarly not authorized by this rule.

The rule is also amended to clarify the cross-references to Minn. R. Civ. P. 45, made necessary by the reorganization and renumbering of Rule 45 effective on Jan. 1, 2006. Rule 45 provides a comprehensive procedure for use of subpoenas that is helpful in conciliation court with one significant exception: because subpoenas are only available in conciliation court for use at trial, and not for pre-trial discovery, the portions of Rule 45 dealing with pre-trial discovery are not applicable in conciliation court.