Certificate

THE STATE OF MINNESOTA.

I, Joseph J. Bright, Revisor of Statutes, hereby certify that I have compared each of the sections printed in this edition of Minnesota Statutes, 1961, with its original section of the statutes, so far as sections printed therein were derived from those statutes; and have compared every other section printed therein with the original section in the enrolled act from which the same was derived; and have compared every section that has been amended, with all amendments thereof; and that all sections therein appear to be correctly printed.

JOSEPH J. BRIGHT,
Revisor.

DISTRICT COURT TERMS

FIRST JUDICIAL DISTRICT

Chief Judge: Wm. C. Christianson.
Judges: Wm. C. Christianson, Red Wing; Harold E. Flynn, Shakopee; Arlo E. Haering, Waconia; Roy C. Nelsen, Hastings.

Counties	Terms	Where Held
Carver	Last Monday in February; second Monday in October	Chaska
Dakota	Second Monday in January; first Monday in April; third Monday in September	Hastings
Goodhue	Second Monday in February; second Monday in May; first Monday in October	Red Wing
LeSueur	First Monday in April; first Tuesday in September	LeCenter
McLeod	First Monday in November; second Monday in May	Glencoe
Scott	Second Monday in May; second Monday in November	Shakopee
Sibley	Third Monday in September; first Monday in March	Gaylord

SPECIAL TERMS

Dakota	First and third Friday each month except July and August	Hastings
Goodhue	First and third Tuesday each month except July and August	Red Wing
LeSueur	Last Friday of each month	LeCenter
McLeod	Second and fourth Fridays each month at 10:00 A.M.	Glencoe
Scott	First and third Fridays each month at 10:00 A.M.	Shakopee
Sibley	First Friday of each month	Gaylord

SECOND JUDICIAL DISTRICT

Chief Judge: Clayton Parks.
Judges: Clayton Parks, Albin S. Pearson, Robert V. Rensch, Ronald E. Hachey, John W. Graff, Archie L. Gingold, Edward D. Mulally, Clifford J. Keyes.

County	Terms	Where Held
Ramsey	First Monday in October of each year	St. Paul

SPECIAL TERMS

Ramsey	Daily before the judge in chambers	St. Paul

THIRD JUDICIAL DISTRICT

Chief Judge: Leo F. Murphy.
Judges: Arnold W. Hatfield, Wabasha; A. C. Richardson, Austin; Warren F. Plunkett, Austin; Leo F. Murphy, Winona; John F. Cahill, Waseca.

Counties	Terms	Where Held
Dodge	First Monday in April; third Monday in September	Mantorville
Fillmore	Second Monday in April; second Monday in October	Preston
Freeborn	Fourth Monday in March; second Monday in September; first Monday in December	Albert Lea
Houston	Third Monday in May; fourth Monday in October	Caledonia
Mower	Second Monday in February; first Monday in June; second Monday in November	Austin
Olmsted	First Tuesday after the first Monday in September	Rochester
Rice	First Monday in May; first Wednesday after first Monday in November	Faribault
Steele	First Monday in April; third Monday in September	Owatonna
Wabasha	Third Monday in May; second Monday in November	Wabasha
Waseca	First Monday in March; second Monday in October	Waseca
Winona	Second Monday in January; third Monday in April; third Monday in September	Winona

SPECIAL TERMS

Houston	First Thursday in each month	Caledonia
Olmsted	First and third Fridays in each month	Rochester
Wabasha	Third Monday in each month	Wabasha
Winona	Second and fourth Mondays in each month	Winona

Special term days scheduled for Monday falling on a legal holiday will be held the Tuesday following. Other special term days falling on a legal holiday will be held on the day preceding the holiday.

FOURTH JUDICIAL DISTRICT

Chief Judge: Levi M. Hall.
Judges: Levi M. Hall, John A. Weeks, Earl J. Lyons, Harold N. Rogers, Rolf Fosseen, Theodore B. Knudson, Paul Jaroscak, Leslie L. Anderson, Thomas Tallakson, Irving R. Brand, William D. Gunn, Dana Nicholson, Luther Sletten, Lindsay G. Arthur.

County	Terms	Where Held
Hennepin	Second Monday in September	Minneapolis

SPECIAL TERMS

Daily before judge in chambers.

FIFTH JUDICIAL DISTRICT

Chief Judge: Charles A. Flinn.
Judges: Charles A. Flinn, Windom; Milton D. Mason, Mankato; George D. Erickson, New Ulm; L. J. Irvine, Wells; Walter H. Mann, Windom.

Counties	Terms	Where Held
Blue Earth	First Tuesday in February; second Tuesday in May; second Wednesday in October	Mankato
Brown	Second Monday in May; first Monday after Thanksgiving Day	New Ulm
Cottonwood	Fourth Tuesday in April; second Tuesday in November	Windom
Faribault	Second Monday in May; second Monday in November	Blue Earth
Jackson	Second Monday in April; second Monday in September	Jackson
Lincoln	First Monday in March; second Monday in September	Ivanhoe
Lyon	Fourth Monday in April; fourth Monday in October	Marshall
Martin	Second Monday in March; second Monday in October	Fairmont
Murray	Second Tuesday in April; first Tuesday in December	Slayton

Nicollet	First Monday in March; second Monday in September	St. Peter
Nobles	Second Tuesday in February; second Tuesday in October	Worthington
Pipestone	First Monday in May; first Monday in November	Pipestone
Redwood	First Monday in April; first Monday in October	Redwood Falls
Rock	Second Tuesday in March; second Tuesday in September	Luverne
Watonwan	Second Tuesday in April, second Tuesday in September	St. James

SPECIAL TERMS

(No special terms in August.)

Blue Earth	Second and fourth Mondays of each month	Mankato
Brown	Fourth Monday of each month	New Ulm
Faribault	Second Monday of each month	Blue Earth
Jackson	Third Monday of each month	Jackson
Lyon	Fourth Monday of each month	Marshall
Martin	First Monday of each month	Fairmont
Pipestone	Second Monday of each month	Pipestone
Watonwan	Fourth Monday in February; second Monday in May and October; other months (except August), second and fourth Mondays, 1:00 P.M.	St. James

SIXTH JUDICIAL DISTRICT

Chief Judge: Mark Nolan.

Judges: Mark Nolan, Duluth; Victor H. Johnson, Duluth; Christ Holm, Hibbing; J. K. Underhill, Duluth; Sidney E. Kaner, Duluth; Arthur O. Anselmo, Virginia.

Counties	Terms	Where Held
Carlton	Second Tuesday in February; third Tuesday in May; second Tuesday in October	Carlton
Cook	Third Monday in April; third Monday in October	Grand Marais
Lake	Third Monday in May; second Monday in January	Two Harbors
St. Louis	Third Monday after first day in January; first Monday in April; first Tuesday after first Monday in September; first Monday in November	Duluth

In addition to the general terms of the district court in St. Louis County to be held at the county seat, general terms of the court are hereby established to be held in the city of Virginia, in that county, on the first Tuesday in April, the first Wednesday after the first Monday in September, and the fourth Tuesday in November; in the village of Hibbing, in that county, the second Monday in February, and the second Monday in May, and the second Monday in October, in each year; in the city of Ely, in that county, the third Monday in March and the third Monday in October, in each year, for the trial, hearing and determination of all actions, civil and criminal, and with the same force and effect as though held at the county seat of said county; and all proceedings of whatsoever kind that can be heard and determined in the district court of this state may be tried, heard and determined at the said city of Virginia, the said village of Hibbing, or the said city of Ely with the same force and effect as though heard and determined at the county seat of said county, except that all proceedings for the registration of title to real estate shall be tried at the county seat of said county as now provided by law, and all other actions to determine title to real estate shall be tried at the county seat, except that by written consent of all parties thereto any such action may be tried at said city of Virginia, at the village of Hibbing, or the city of Ely in accordance with such written consent; but no officer having in his custody any of the public records of St. Louis County shall be required to produce such record at the trial of any action not on trial at the county seat, save upon the order of the court providing for the production of such record and its immediate return to the officer producing it, upon its introduction as evidence in such cause. If the day specified for the commencement of any term herein falls on a legal holiday, said term shall commence on the first business day following said holiday.

SPECIAL TERMS

Counties	Terms	Where Held
Carlton	First and third Wednesday of each month excepting July and August, at 2:00 p.m.; third Wednesday in July and August, 2:00 p.m.	Carlton
Cook	Special term matters may be noted to be heard at the call of the calendar at any general term	Grand Marais
Lake	Fourth Wednesday of each month, at 2:00 p.m.	Two Harbors

Special term matters of which the venue would normally be in Carlton, Cook, or Lake county may be heard on the regular special term to be held in Duluth upon order of a district judge.

St. Louis	Monday through Thursday of each week, at 9:30 a.m.	Duluth
	Second and fourth Friday of each month except August, at 9:30 a.m.	Virginia
	First and third Friday of each month except August, at 9:30 a.m.	Hibbing

Special term matters of which the venue would be Ely may be noted to be heard at Virginia at any special term for that city.

Special term matters for the county of St. Louis shall be noted for and heard at the place of trial designated for contested matters in sections 484.47-484.52 unless otherwise ordered by a district judge.

SEVENTH JUDICIAL DISTRICT

Chief Judge: Byron R. Wilson.

Judges: Byron R. Wilson, Moorhead; Rol E. Barron, Wadena; E. J. Ruegemer, St. Cloud; Charles W. Kennedy, Little Falls.

Counties	Terms	Where Held
Becker	First Monday in February; first Tuesday in September	Detroit Lakes
Benton	First Monday in February; first Tuesday in September	Foley
Clay	Second Monday in April; second Monday in November	Moorhead
Douglas	First Monday in March; first Monday in October	Alexandria
Mille Lacs	First Monday in February; first Tuesday in September	Milaca
Morrison	Second Monday in April; second Monday in November	Little Falls
Otter Tail	Second Monday in April; second Monday in November	Fergus Falls
Stearns	First Monday in March; first Monday in October	St. Cloud
Todd	First Monday in March; first Monday in October	Long Prairie
Wadena	First Monday in February; first Tuesday in September	Wadena

EIGHTH JUDICIAL DISTRICT

Chief Judge: E. R. Selnes.

Judges: E. R. Selnes, Glenwood; C. A. Rolloff, Montevideo; Sam G. Gandrud, Litchfield.

Counties	Terms	Where Held
Big Stone	Third Monday in May; first Monday in December	Ortonville
Chippewa	First Monday in June; first Monday in December	Montevideo

Grant	Second Monday in March; third Monday in October	Elbow Lake
Kandiyohi	Second Monday in March; second Monday in September	Willmar
Lac qui Parle	Second Monday in April; second Monday in October	Madison
Meeker	Second Monday in April; second Monday in October	Litchfield
Pope	First Monday in June; third Monday in November	Glenwood
Renville	Second Monday in May; second Monday in November	Olivia
Stevens	Second Monday in February; second Monday in September	Morris
Swift	Second Monday in May; second Monday in November	Benson
Traverse	Fourth Monday in February; first Monday in October	Wheaton
Wilkin	Fourth Monday in March; first Monday in November	Breckenridge
Yellow Medicine	Second Monday in March; second Monday in September	Granite Falls

NINTH JUDICIAL DISTRICT

Chief Judge: J. J. Hadler.

Judges: J. J. Hadler, International Falls; Arnold C. Forbes, Bemidji; J. H. Sylvestre, Crookston; John T. Galarneault, Brainerd; James Murphy, Grand Rapids; Lyman A. Brink, Thief River Falls.

Counties	Terms	Where Held
Aitkin	Second Tuesday in May; first Tuesday in December	Aitkin
Beltrami	First Tuesday in February; second Tuesday in September	Bemidji
Cass	First Tuesday in May; first Tuesday in December	Walker
Clearwater	Third Tuesday in April; first Tuesday in November	Bagley
Crow Wing	First Tuesday in February; first Tuesday in September	Brainerd
Hubbard	Second Tuesday in March; second Tuesday in October	Park Rapids
Itasca	Third Tuesday in February; second Tuesday in September	Grand Rapids
Kittson	Fourth Tuesday in February; fourth Tuesday in September	Hallock
Koochiching	Third Tuesday in March; first Tuesday in October	International Falls
Lake of the Woods	Third Tuesday in February; first Tuesday in September	Baudette
Mahnomen	First Tuesday in March; first Tuesday in October	Mahnomen
Marshall	First Tuesday in February; first Tuesday in September	Warren
Norman	Second Tuesday in February; second Tuesday in September	Ada
Pennington	First Tuesday in April; first Tuesday in November	Thief River Falls
Polk	Second Tuesday in April; second Tuesday in November	Crookston
Red Lake	Third Tuesday in March; third Tuesday in October	Red Lake Falls
Roseau	Second Tuesday in March; second Tuesday in October	Roseau

Whenever the day specified for the beginning of any general term falls upon a legal holiday or general election day, the term shall begin on the day following.

TENTH JUDICIAL DISTRICT

Chief Judge: Leonard Keyes.

Judges: Leonard Keyes, Anoka; Carl W. Gustafson, Center City; Rollin G. Johnson, Stillwater; Robert B. Gillespie, Cambridge.

Counties	Terms	Where Held
Anoka	First Tuesday in October	Anoka
Chisago	First Tuesday in April; first Tuesday in November	Center City
Isanti	First Tuesday in February; first Tuesday in September	Cambridge
Kanabec	First Tuesday in May; first Tuesday in December	Mora
Pine	First Tuesday in February; first Tuesday in September	Pine City
Sherburne	First Tuesday in February; first Tuesday in September	Elk River
Washington	First Tuesday in October	Stillwater
Wright	First Tuesday in March; first Tuesday in October	Buffalo

SPECIAL TERMS

Anoka	First, second and third Mondays of each month	Anoka
Chisago	Fourth Monday in February, June and August	Center City
Washington	Second and fourth Mondays of each month	Stillwater
Isanti, Kanabec, Pine, Sherburne, and Wright	By appointment	Respective county seat

APPENDICES

APPENDIX 1. Supreme Court of Minnesota
APPENDIX 2. District Court
APPENDIX 3. Municipal Courts
APPENDIX 4. Judges of Probate
APPENDIX 5. United States Courts in Minnesota
APPENDIX 6. Supreme Court Rules
APPENDIX 7. District Court Rules
APPENDIX 8. Rules of Civil Procedure for the District Courts of Minnesota
APPENDIX 9. Analysis of the State Governmental Structure

APPENDIX 1

SUPREME COURT OF MINNESOTA

CHIEF JUSTICE

	Term Expires
Oscar R. Knutson	1967

ASSOCIATE JUSTICES

Thomas F. Gallagher	1967
Frank T. Gallagher	1965
Martin A. Nelson	1967
William P. Murphy	1963
James C. Otis	1963
Walter F. Rogosheske	1965

COMMISSIONER

Clarence R. Magney

CLERK OF SUPREME COURT

Mae Sherman
John McCarthy (Deputy)

REPORTER OF SUPREME COURT

Ruth E. Jensen

REVISOR OF STATUTES

Joseph J. Bright
Bert McMullen (Assistant)

LAW LIBRARIAN

Margaret S. Andrews
Howard M. Adams (Assistant)

APPENDIX 2

DISTRICT COURT

JUDGES

TERMS: Judges elected for six years, terms expiring first Monday in January of year.

Dist.	Judge	Post Office	Term Expires
1	Wm. C. Christianson	Red Wing	1963
1	Harold E. Flynn	Shakopee	1963
1	Arlo E. Haering	Waconia	1967
1	Roy C. Nelsen	Hastings	1967
2	Clayton Parks	St. Paul	1963
2	Albin S. Pearson	St. Paul	1965
2	Robert V. Rensch	St. Paul	1963
2	Ronald E. Hachey	St. Paul	1963
2	John W. Graff	St. Paul	1967
2	Archie L. Gingold	St. Paul	1963
2	Edward D. Mulally	St. Paul	1963
2	Clifford J. Keyes	St. Paul	1963
3	Arnold Hatfield	Wabasha	1967
3	A. C. Richardson	Austin	1967
3	Warren F. Plunkett	Austin	1963
3	Leo F. Murphy	Winona	1965
3	John F. Cahill	Waseca	1965
4	Levi M. Hall	Minneapolis	1963
4	John A. Weeks	Minneapolis	1965
4	Earl J. Lyons	Minneapolis	1967
4	Harold N. Rogers	Minneapolis	1963
4	Rolf Fosseen	Minneapolis	1963
4	Theodore B. Knudson	Minneapolis	1963
4	Paul J. Jaroscak	Minneapolis	1965
4	Leslie L. Anderson	Minneapolis	1965
4	Thomas Tallakson	Minneapolis	1965
4	Irving R. Brand	Minneapolis	1963
4	William D. Gunn	Minneapolis	1967
4	Dana Nicholson	Minneapolis	1967
4	Luther Sletten	Minneapolis	1967
4	Lindsay G. Arthur	Minneapolis	1965
5	Charles A. Flinn	Windom	1963
5	Milton D. Mason	Mankato	1963
5	George D. Erickson	New Ulm	1965
5	L. J. Irvine	Fairmont	1963
5	Walter H. Mann	Windom	1963
6	Mark Nolan	Duluth	1967
6	Victor H. Johnson	Duluth	1963
6	Christ Holm	Hibbing	1965
6	J. K. Underhill	Duluth	1965
6	Sidney E. Kaner	Duluth	1967
6	Arthur O. Anselmo	Duluth	1963
7	Byron R. Wilson	Moorhead	1967
7	Rol E. Barron	Wadena	1965
7	E. J. Ruegemer	St. Cloud	1967
7	Charles W. Kennedy	Little Falls	1965
8	E. R. Selnes	Glenwood	1967
8	Clarence A. Rolloff	Montevideo	1965
8	Sam G. Gandrud	Litchfield	1965
9	J. J. Hadler	International Falls	1965
9	Arnold C. Forbes	Bemidji	1963
9	J. H. Sylvestre	Crookston	1963
9	John T. Galarneault	Aitkin	1967
9	James F. Murphy	Grand Rapids	1967
9	Lyman A. Brink	Thief River Falls	1965
10	Leonard Keyes	Anoka	1965
10	Carl W. Gustafson	Center City	1963
10	Rollin G. Johnson	Forest Lake	1967
10	Robert B. Gillespie	Cambridge	1963

CLERKS

District	County	Name	Address
1	Carver	Albert A. Vojisek	Chaska
	Dakota	Eugene Casserly	Hastings
	Goodhue	Ellif W. Olson	Red Wing
	LeSueur	Edsel J. Janovsky	LeCenter
	McLeod	Heston Benson	Glencoe
	Scott	Hugo P. Hentges	Shakopee
	Sibley	Robert Busse	Gaylord
2	Ramsey	Edward J. Fitzgerald	St. Paul
3	Dodge	Harry E. Cowles	Mantorville
	Fillmore	Kerneth J. Hall	Preston
	Freeborn	Evan K. Wulff	Albert Lea
	Houston	Claude Kremer	Houston

	Mower	William D. Sucha	Austin
	Olmsted	Rosemary Forbes	Rochester
	Rice	Elmer N. Heck	Faribault
	Steele	Harry Ganser	Owatonna
	Wabasha	Luke C. Beaver	Wabasha
	Waseca	Frank S. Papke	Waseca
	Winona	Joseph C. Page	Winona
4	Hennepin	Philip C. Schmidt	Minneapolis
5	Blue Earth	Harry W. Haedt	Mankato
	Brown	Carl A. Witt	New Ulm
	Cottonwood	M. B. Severson	Windom
	Faribault	Paul Belau	Blue Earth
	Jackson	John Seim	Jackson
	Lincoln	James Gilronan	Lake Benton
	Lyon	H. E. Persons	Marshall
	Martin	K. W. Koenecke	Fairmont
	Murray	Douglas E. Johnson	Slayton
	Nicollet	Olive Peterson	St. Peter
	Nobles	Stanley E. Nelson	Worthington
	Pipestone	O. T. Johnson	Pipestone
	Redwood	Keith Baldwin	Redwood Falls
	Rock	Charles W. Soutar	Luverne
	Watonwan	Ruth Steele Eppeland	St. James
6	Carlton	Ruth K. Koski	Carlton
	Cook	J. T. Hussey	Grand Marais
	Lake	J. R. Lindgren	Two Harbors
	St. Louis	Fred Ash	Duluth
7	Becker	Charlie Greenlaw	Detroit Lakes
	Benton	S. J. Tomporowski	Foley
	Clay	D. G. Rusness	Moorhead
	Douglas	Ed Ormseth	Alexandria
	Mille Lacs	Waldo A. Allen	Milaca
	Morrison	R. L. Meyers	Little Falls
	Otter Tail	H. W. Giorvigen	Fergus Falls
	Stearns	Albert W. Schmitt	St. Cloud
	Todd	Harry L. King	Long Prairie
	Wadena	Florence Claydon	Wadena
8	Big Stone	H. A. Larkin	Ortonville
	Chippewa	Clara V. Ronning	Montevideo
	Grant	Harold Bartness	Elbow Lake
	Kandiyohi	Leonard Blom	Willmar
	Lac qui Parle	E. C. Hull	Madison
	Meeker	Stanley O. Ross	Litchfield
	Pope	Hartvig Pederson	Glenwood
	Renville	Glen Agre	Olivia
	Stevens	E. T. Jacobson	Morris
	Swift	Earl H. Prall	Benson
	Traverse	Walter H. Klugman	Wheaton
	Wilkin	A. W. Gruenberg	Breckenridge
	Yellow Medicine	Edwy O. Dibble	Granite Falls
9	Aitkin	Walter M. Moork	Aitkin
	Beltrami	Beatrice Haley	Bemidji
	Cass	Anona Riviere	Walker
	Clearwater	John O. Hanson	Bagley
	Crow Wing	Leone Bouck	Brainerd
	Hubbard	E. W. Andrews	Park Rapids
	Itasca	Tyrus L. Bischoff	Grand Rapids
	Kittson	Jean Pemberton	Hallock
	Koochiching	A. J. Carew	International Falls
	Lake of the Woods	Belle M. Williams	Baudette
	Mahnomen	Isabel Withrow	Mahnomen
	Marshall	Edwin Rokke	Warren
	Norman	Oscar H. Nordby	Ada
	Pennington	Henry Storhaug	Thief River Falls
	Polk	Raymond H. Espe	Crookston
	Red Lake	Hazel Pahlen	Red Lake Falls
	Roseau	C. A. Cornelliusen	Roseau
10	Anoka	Raymond Nilsson	Anoka
	Chisago	Violet Zelen	Center City
	Isanti	Harriet B. Peterson	Cambridge
	Kanabec	Albert E. Anderson	Mora
	Pine	Cornelius Nieboer	Pine City
	Sherburne	Irvin Hetrick	Elk River
	Washington	R. C. Peterson	Stillwater
	Wright	Carl Nordberg	Buffalo

APPENDIX 3

MUNICIPAL COURTS

Municipal Court Rules of Civil Procedure are published in Minnesota Reports, Volume 255, as a supplement thereto.

Municipality	Judge
Ada, city	Walter Ripley
Adrian, village	Herman T. Vanderwaal
Albert Lea, city	A. K. Grinley
Alexandria, city	Joseph G. Thornton
Anoka, city	James T. Knutson
Appleton, city	Kenneth Kivley
Austin, city	Fred G. Vogel
Bemidji, city	Fredrick Wedell
Bloomington, city	Herbert Willcox
Brainerd, city	Robert R. Alderman
Buhl, village	Thomas J. Guidarelli
Canby, city	O. J. Ostensoe
Cass Lake, village	Grover F. Rowlette
Chisholm, city	Sam Nenadich
Cloquet, city	Ladean A. Overlie
Columbia Heights, city	Joseph Wargo
Coon Rapids, city	Thomas G. Forsberg
Crookston, city	Joseph T. Noah
Crosby, village	Eugene Foote
Dawson, city	Harold R. Battershell
Detroit Lakes, city	Peter F. Schroeder
Duluth, city	Patrick A. Burke
	Donald Odden
East Grand Forks, city	Robert J. Stewart
Edina, village	Donald S. Burris
Ely, city	John W. Somrock
Eveleth, city	Rudolph J. Peshel
Faribault, city	James H. Caswell
Fergus Falls, city	Elliott O. Boe
Fridley, village	Elmer M. Johnson
Gaylord, village	
Gilbert, village	Carlo R. Paciotti
Glencoe, city	Frank T. O'Malley
Golden Valley, city	A. P. Lommen
Granite Falls, city	Robert L. Carlson
Hastings, city	R. W. Ganfield
Hibbing, village	Nicholas S. Chanak
Hopkins, city	K. M. Otto
Hutchinson, city	Elmer Jensen
International Falls, city	Mark M. Abbott
Jordan, city	Joseph M. Schwingler
Kasson, village	Rosemary Beaver
Keewatin, village	Steve G. Grcevich
Lake City, city	John W. Lamb
LeSueur, city	John C. Schmidt
Little Falls, city	Harold M. Braggans
Long Prairie, village	Logan O. Scow
Luverne, city	Daniel M. Main
Madison, city	Harold S. Nelson, Jr.
Mahnomen, village	Charles F. Vondra
Mankato, city	Leslie H. Morse
Marshall, city	Algerie L. Soucy
Minneapolis, city	Elmer R. Anderson
	Douglas K. Amdahl
	Donald T. Barbeau
	Tom Bergin
	Mrs. Betty Washburn
	Edwin C. Chapman
	Bruce C. Stone
	Herbert W. Estrem
Montevideo, city	Bryajolf J. Oyen
Montgomery, city	Frank M. Turek
Moorhead, city	Norman H. Nelson
Moose Lake, village	R. T. Hart, Jr.
Morris, city	Sheridan Flaherty
Nashwauk, village	Frank Dergantz
New Prague, city	Stanley Wagner
New Ulm, city	Ed. A. Nierengarten
Northfield, city	Osmund H. Ause
North Mankato, city	A. J. Berndt
North St. Paul, city	Edgar H. White
Ortonville, city	Fred Wickland
Owatonna, city	F. A. Alexander
Perham, village	John Kukowske, Jr.
Pine Island, village	Theodore C. Coen
Pipestone, city	Theodore E. Fellows
Plymouth, city	William Merlin
Proctor, village	Fred Stopnik
Red Wing, city	Gilbert W. Terwilliger
Redwood Falls, city	Tom Reed
Richfield, village	Joseph J. Poitras
Rochester, city	William LaPlante
Roseville, village	Jerome E. Franke
St. Charles, city	Samuel H. McElhaney
St. Cloud, city	Wendell Y. Henning
St. Louis Park, city	A. Yngve
	J. C. McNulty
St. Paul, city	L. J. Keyes
	David Marsden
	J. J. Plunkett
	J. Clifford Janes
Sauk Centre, city	Leo Hedin
	C. Hall
Shakopee, city	Robert O. Sweeney
Sleepy Eye, city	Willard Hauser
South St. Paul, city	Irving W. Beaudoin
Springfield, city	Leo Arnold Berg
Staples, city	L. S. Hand
Stillwater, city	John L. Jewell
Thief River Falls, city	H. O. Chommie
Tower, city	J. A. Johnson
Tracy, village	Russell W. Brewster
West St. Paul, city	G. E. Carlson
White Bear Lake, city	Wm. J. Fleming
Willmar, city	L. M. Halverson
Winona, city	S. D. J. Bruski
Worthington, city	Henry Fauske
Two Harbors, city	Thomas W. Dwan
Virginia, city	Thomas J. Carey
Waseca, city	Daniel B. Gallagher
Waterville, city	Joseph Poehler
Wayzata, city	Earle H. Johnson, Jr.

APPENDIX 4

JUDGES OF PROBATE

County	Name	Post-Office Address
Aitkin	L. E. Johnson	Aitkin
Anoka	Lawrence J. Green	Anoka
Becker	Sigwell Wood	Detroit Lakes
Beltrami	Marcus Reed	Bemidji
Benton	Charles Walker	Foley
Big Stone	Hiram W. Hewitt	Clinton
Blue Earth	Carl W. Peterson	Mankato
Brown	William B. Mather, Jr.	New Ulm
Carlton	Ed. J. Johnson	Carlton
Carver	Edward H. Luedloff	Chaska
Cass	A. B. Oliver	Walker
Chippewa	Douglas P. Hunt	Montevideo
Chisago	A. M. Bullis	North Branch
Clay	James A. Garrity	Moorhead
Clearwater	Melvin T. Anderson	Bagley
Cook	James V. Creech	Grand Marais
Cottonwood	Lucille Stahl	Windom
Crow Wing	H. W. Longfellow	Brainerd
Dakota	E. J. Hiniker	Hastings
Dodge	L. A. Paulsrude	Dodge Center
Douglas	Roy C. Wicklund	Alexandria
Faribault	John A. Wasgatt	Blue Earth
Fillmore	George O. Murray	Preston
Freeborn	Norris O. Peterson	Albert Lea
Goodhue	Elmer J. Tomfohr	Red Wing
Grant	Arthur H. Ackerson	Elbow Lake
Hennepin	Melvin J. Peterson	Minneapolis
Houston	Elmer M. Anderson	Caledonia
Hubbard	Keith L. Kraft	Park Rapids
Isanti	Raymond T. Olsen	Cambridge
Itasca	John W. Gardner	Grand Rapids
Jackson	William G. Kreger	Jackson
Kanabec	Frank M. Ziegler	Mora
Kandiyohi	M. A. Wahlstrand	Willmar
Kittson	C. J. Hemmingson	Hallock
Koochiching	Harvey H. Palmer	International Falls
Lac qui Parle	Theodore Slen	Madison
Lake	Walter Egeland	Two Harbors
Lake of the Woods	W. B. Sherwood	Baudette
LeSueur	Ruth Brown	LeCenter
Lincoln	Clinton C. Crumlett	Lake Benton
Lyon	R. N. Anderson	Marshall
McLeod	J. A. Morrison	Hutchinson
Mahnomen	Jerome L. Kersting	Mahnomen
Marshall	A. A. Trost	Warren
Martin	H. L. Cave	Fairmont
Meeker	Reuben C. Erickson	Litchfield
Mille Lacs	Leonard M. Paulson	Milaca
Morrison	Charles A. Fortier	Little Falls
Mower	Paul Kimball, Jr.	Austin
Murray	William Mitchell	Slayton
Nicollet	Sam Abrahamson	St. Peter
Nobles	Vincent Hollaren	Worthington
Norman	Olav E. Vaule	Ada
Olmsted	Thomas J. Scanlan	Rochester
Otter Tail	Frank C. Barnes	Fergus Falls
Pennington	Herman A. Kjos	Thief River Falls
Pine	George E. Sausen	Pine City
Pipestone	Francis O'Neill	Pipestone
Polk	Philip A. Anderson	Crookston
Pope	Gilman P. Gandrud	Glenwood
Ramsey	Andrew A. Glenn	St. Paul
Red Lake	Glen N. Fellman	Red Lake Falls
Redwood	Donald Crooks	Redwood Falls
Renville	George H. Jacobson	Olivia
Rice	Robert W. Martin	Faribault
Rock	Helga Skyberg	Luverne
Roseau	E. A. Dubore	Roseau
St. Louis	George Crago	Duluth
Scott	F. J. Connolly	Shakopee
Sherburne	Robert A. Hastings	Elk River
Sibley	Kenneth Bull	Gaylord
Stearns	John Lang	St. Cloud
Steele	Charles E. Cashman	Owatonna
Stevens	E. L. Cress	Morris
Swift	C. A. Larson	Benson
Todd	J. Norman Peterson	Long Prairie
Traverse	Albin C. Hofstedt	Wheaton
Wabasha	Kenneth Kalbrenner	Wabasha
Wadena	Lynn H. Pettit	Wadena
Waseca	John H. McLoone	Waseca
Washington	John T. McDonough	Stillwater
Watonwan	James F. Crowley	St. James
Wilkin	Leo A. Reuther	Breckenridge
Winona	E. D. Libera	Winona
Wright	Clifford Olson	Buffalo
Yellow Medicine	Salmer N. Knutson	Granite Falls

APPENDIX 5

UNITED STATES COURTS IN MINNESOTA

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT
and
UNITED STATES DISTRICT COURT

CIRCUIT JUSTICE

Charles E. Whittacker, Associate Justice, United States Supreme Court, Washington, D. C.

CIRCUIT JUDGES (EIGHTH CIRCUIT)

Harvey M. Johnsen, Chief Judge, Omaha, Nebr.
Charles J. Vogel, Fargo, N. D.
Martin D. Van Oosterhout, Sioux City, Iowa
Marion C. Matthes, St. Louis, Mo.
Harry A. Blackmun, Rochester, Minn.
Albert A. Ridge, Kansas City, Mo.

Senior Circuit Judges

Archibald K. Gardner, Huron, S. D.
John B. Sanborn, St. Paul, Minn.
Joseph W. Woodrough, Omaha, Nebr.
Seth Thomas, Fort Dodge, Iowa

CLERK OF U. S. COURT OF APPEALS (EIGHTH CIRCUIT)

Robert C. Tucker, St. Louis, Mo.

DISTRICT JUDGES

Gunnar H. Nordbye, Minneapolis, Minn.
Edward J. Devitt, St. Paul, Minn.
Dennis F. Donovan, Duluth, Minn.
Earl R. Larson, Minneapolis, Minn.

CLERK OF DISTRICT COURT

Frank A. Massey, St. Paul, Minn.

DEPUTY CLERKS OF COURT

Lawrence R. Tapper, St. Paul, Minn.
Marion G. Hilgert, St. Paul, Minn.
Leona G. Stoddard, St. Paul, Minn.
Thomas Lamson, St. Paul, Minn.
Sam Hanson, St. Paul, Minn.
Irya Tahtinen, Duluth, Minn.
Lorraine Leiste, Duluth, Minn.
William H. Eckley, Minneapolis, Minn.
Gladys A. M. Rippe, Minneapolis, Minn.
Christine H. Orstad, Minneapolis, Minn.
Hazel Gabrielson, Minneapolis, Minn.
Judith Palmer, Minneapolis, Minn.
Robert Grashuis, Minneapolis, Minn.
Donald Hazelwood, Minneapolis, Minn.

UNITED STATES ATTORNEY

Miles W. Lord

ASSISTANT UNITED STATES ATTORNEYS

John J. Connelly
Jonathan E. Cudd
Edward J. Drury
Patrick J. Foley
Murray L. Galinson
Hartley Nordin

DEPARTMENT OF JUSTICE, BUREAU OF INVESTIGATION

William H. Williams, Special Agent in Charge, Minneapolis, Minn.

UNITED STATES MARSHAL

Harry Sieben, St. Paul, Minn.
Wm. Thompson, Chief Deputy, St. Paul, Minn.

TERMS OF COURT—DISTRICT OF MINNESOTA

Third Division (St. Paul): First Tuesday in April and first Tuesday in November.
Fourth Division (Minneapolis): First Tuesday in March and fourth Tuesday in September.
Fifth Division (Duluth): First Tuesday in May and first Tuesday in December.
Sixth Division (Fergus Falls): Third Tuesday in June.

The State of Minnesota constitutes one judicial district, divided into six divisions. The clerk maintains offices in the third (St. Paul), fourth (Minneapolis), and fifth (Duluth) divisions only, and all papers and correspondence relative to cases in those divisions should be mailed to the divisional offices involved. All papers and correspondence relative to cases in the first, second, and sixth divisions should be mailed to the clerk's office at St. Paul. Special terms of court are held at St. Paul (third division) on the fourth Monday of each month except July and August; Minneapolis (fourth division) second Monday of each month except July and August; Duluth (fifth division) first Tuesday in May, first Tuesday in December, and first Friday of each other month except July and August. Special terms of court held in the sixth division on the opening day of general term in such division.

COUNTIES IN THE DISTRICT

First Division: Dodge, Fillmore, Houston, Mower, Olmsted, Steele, Wabasha, and Winona.

Second Division: Blue Earth, Brown, Cottonwood, Faribault, Freeborn, Jackson, Lac qui Parle, LeSueur, Lincoln, Lyon, Martin, Murray, Nicollet, Nobles, Pipestone, Redwood, Rock, Sibley, Waseca, Watonwan, and Yellow Medicine.

Third Division: Chisago, Dakota, Goodhue, Ramsey, Rice, Scott, and Washington.

Fourth Division: Anoka, Carver, Chippewa, Hennepin, Isanti, Kandiyohi, McLeod, Meeker, Renville, Sherburne, Swift, and Wright.

Fifth Division: Aitkin, Benton, Carlton, Cass, Cook, Crow Wing, Itasca, Kanabec, Koochiching, Lake, Mille Lacs, Morrison, Pine, and St. Louis.

Sixth Division: Becker, Beltrami, Big Stone, Clay, Clearwater, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stearns, Stevens, Todd, Traverse, Wadena, and Wilkin.

REFEREES IN BANKRUPTCY

James J. Giblin, St. Paul, Minn.
First, Second, Third, and Sixth Divisions.
George A. Heisey, Minneapolis, Minn.
Kenneth G. Owens, Minneapolis, Minn.
Fourth and Fifth Divisions.

MASTERS IN CHANCERY

(Masters appointed by the court when deemed necessary)

UNITED STATES COMMISSIONERS

First Division:
Richard H. Darby, Winona, Minn.
Second Division:
Percy Mechl, Marshall, Minn.
Third Division:
William H. Eckley, Minneapolis, Minn.
Fourth Division:
Charles O. Lundquist, Minneapolis, Minn.
Fifth Division:
John D. Durfee, Minneapolis, Minn.
Sixth Division:
Frank C. Branes, Fergus Falls, Minn.
Warren C. Isely, Humboldt, Minn.
Marcus A. Reed, Bemidji, Minn.
Wendell Y. Henning, St. Cloud, Minn.
Clarence W. Kludt, Crookston, Minn.

APPENDIX 6

SUPREME COURT OF MINNESOTA RULES OF PRACTICE

RULE I

CLERK—DUTIES OF. 1. The clerk shall keep a general docket or register in which he shall enter the title of all actions and proceedings including the names of the parties and the attorneys by whom they prosecute or defend, brief notes of all papers filed and all proceedings had therein, the issuing of writs and other process and the return thereof, and all orders and judgments.

2. He shall also keep a judgment book in which he shall enter all judgments, the names of the parties thereto, the date of the judgment, its number, the amount thereof if the recovery of money or damages is included therein, and the amount of costs and disbursements, which record shall be properly indexed.

3. He shall keep a court journal in which he shall enter from day to day brief minutes of all proceedings in court.

4. He shall file all papers presented to him; endorse thereon the style of the action, its number, the character of the paper and date of filing; and after filing no paper shall be taken from his office unless by order of the court or a judge thereof.

RULE II

CERTIORARI; MANDAMUS; TITLE. In this court the title of all cases under review shall be as in the court below. Writs shall issue in the name of the state upon the relation of the petitioner and the title shall be in the form indicated by the following example:

STATE OF MINNESOTA
IN SUPREME COURT

John Jones,
Plaintiff and Relator,
vs. **WRIT**
Johnson Canning Co.,
Defendant and Respondent.

State upon the relation of John Jones to the.....Court of.....County, Minnesota, and to the Honorable.....,one of the judges thereof:

The petition shall definitely and briefly state the judgment, order, or proceeding which is sought to be reviewed and the errors which the relator claims and the writ shall direct a return of the proceedings. Upon receipt of a $10.00 filing fee the clerk shall file the original petition and order for the writ. The original writ, together with copies of the petition and order shall be served upon the court or judge to whom it is directed and upon the adverse party in interest. The court or judge shall make return thereto. The attendance of counsel on return day is unnecessary.

In certiorari records and briefs shall be printed and served as prescribed by Rule VIII unless the order directing the writ or a subsequent order otherwise provides.

In mandamus records and briefs are not required to be printed, but if they are, the cost thereof may be included as a disbursement in the taxation of costs. If they are not printed, 3 typewritten copies of the petition and briefs shall be filed on or before the return day. No oral argument shall be permitted.

Costs and disbursements may be taxed for or against the adversary parties but not for or against any court or judge thereof.

RULE III

CERTIORARI TO INDUSTRIAL COMMISSION, BOARD OF TAX APPEALS, DIVISION OF EMPLOYMENT AND SECURITY; FORMS; SETTLED CASE.

In applying to this court for a writ of certiorari to review a decision of the Industrial Commission the petitioner may use forms substantially as follows:

STATE OF MINNESOTA
IN SUPREME COURT

John Jones,
Respondent,
vs. **PETITION FOR WRIT OF CERTIORARI**
Johnson Canning Co., et al,
Relators.

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The relators above named hereby petition the Supreme Court for a writ of certiorari to review a decision of the Industrial Commission filed....(date).... upon the grounds that it is not in conformity with the terms of the Workmens Compensation Act and is unwarranted by the evidence.

Dated .....
(signed).....
Attorneys for relators.
(Address including zone number)

ORDER FOR WRIT OF CERTIORARI

Upon the filing of the foregoing petition, let a writ of certiorari issue as therein prayed for, returnable within 30 days of the issuance thereof.

Dated.....
(signed).....
Chief Justice

As the writ is taken out for service after the petition and order have been filed, it should be placed under a separate cover.

(TITLE) **WRIT OF CERTIORARI**

You are hereby ordered to return to this court within 30 days from date hereof the record, exhibits and proceedings in the above entitled matter to the end that the decision of the Industrial Commission filed.....(date).....may be reviewed by this court.

Let service of this writ and of the petition herein be made by delivering the original writ and copy of the petition to the secretary of the Industrial Commission and by delivering copies of the writ and petition herein to.....(names and addresses)....., attorneys for respondents.

WITNESS the Honorable Oscar R. Knutson, Chief Justice of the Supreme Court of the State of Minnesota, and the seal thereof, this.....(date).....
(signed).....
Clerk of Supreme Court

Upon the issuance of a writ the relator, unless otherwise ordered by this court, shall prepare and submit to the adverse parties a proposed settled case for their approval. If approved, a stipulation to that effect shall be entered into by all interested parties. A case, so stipulated to, when approved by the commission shall constitute a settled case. If the parties are unable to agree the relator shall, on not less than five days' notice, apply to the commission for an order settling the case. The party served may in like manner propose amendments thereto within three days thereafter. In either event, the stipulation with the commission's approval or the order of the commission settling the case shall be contained in the printed record. Such record shall be delivered to the commission within the time provided by Minnesota Statutes, Section 176.471, and such printed record, settled in the manner aforesaid, shall constitute the return to this court. All proceedings for the procurement and approval of a settled case shall be as nearly as may be, similar to proceedings on appeal from the district court.

On certiorari to the Division of Employment Security the proposed settled case or the stipulation for settled case shall be approved by the Director or an Assistant Director of the Division of Employment Security.

On certiorari to the board of tax appeals the proposed settled case or the stipulation for settled case shall be approved by a member of the board of tax appeals.

Printed records and briefs shall in all respects conform to Rule VIII of this court except that the printed record shall be served and filed within 30 days from the issuance of the writ.

RULE IV

MOTIONS; EIGHT DAYS' NOTICE. Motions for special relief will be heard on any day in chambers upon eight days' notice given the adverse party, and when not based upon the records and files shall be accompanied by the papers upon which they are founded. No oral argument shall be permitted. The original and three typewritten copies of motion papers and brief in support of or in opposition to the motion shall be filed. All papers, including briefs, which the moving party intends to submit to the court in support of the motion shall be served on opposing counsel at the time of service of the motion papers. All papers, including briefs, in opposition to the motion shall be served on counsel for the moving party within five days thereafter; and if counsel for the moving party wishes, he may serve a reply thereto within two days thereafter.

A $10.00 filing fee is required for an order to show cause except when issued in a pending case where the statutory fee has been paid. The order to show cause shall fix a return day and shall specify the time for the service and filing of affidavits, counter affidavits

and briefs. The original and three copies of the petition, affidavits, and briefs must be filed. The order to show cause shall be filed immediately after issued and before it is taken out for service. The title of the case shall be as in the court below. No oral argument shall be permitted. The attendance of counsel on the return day is unnecessary.

RULE V

APPELLANT TO FILE ESSENTIAL PARTS OF ORIGINAL RECORD TEN DAYS BEFORE ARGUMENT; PLATS; EXHIBITS; CLERKS TO FURNISH LISTS OF PAPERS AND EXHIBITS; DEFECTIVE RETURN; PROCURING ADDITIONAL PAPERS. *Appellant shall designate in writing to the* clerk of the lower court what part of the original record he deems essential to the consideration of questions presented on the appeal, and cause return thereof to be made as required by Minnesota Statutes, Sec. 605.04, ten days before the day set for the argument of the cause in this court. When original papers have been prematurely sent to this court they will be returned to the lower court upon the written request of either party.

In cases involving accidents or tracts of land and other cases where a plat of the locus will facilitate an understanding of the facts or of the issues involved, counsel for appellant should assume personal responsibility for having in this court for the purpose of clarifying the oral argument a plat or diagram of sufficient size and distinctness to be visible to all members of this court when placed upon the court's easel. This applies whether or not a plat or diagram was used upon the trial or proceedings in the lower court.

Where practical, such as in accident cases, the requirement for a plat may be met by drawing, immediately prior to the presentation of argument, a suitable diagram on the courtroom blackboard. Dated October 27, 1953.

Counsel will also see that photographic exhibits shall be in court for the oral argument.

FAILURE TO HEED THIS ADMONITION WILL BE DEEMED SUFFICIENT GROUND FOR DENYING STATUTORY COSTS.

All exhibits sent to the clerk of this court shall have endorsed thereon the title of the case to which they belong. All exhibits will be returned to the clerk of the court below with the remittitur. All models will be so returned when necessary on a new trial, but where the decision of this court is final and no new trial is to be had, such models will be destroyed by the clerk of this court unless called for by the parties within 30 days after final decision is rendered.

Whenever a clerk of a lower court shall transmit to this court any original papers, files or exhibits as required by Minnesota Statutes, Sec. 605.04, he shall include therewith full and complete, detailed lists in duplicate of such papers, files and exhibits. The clerk of this court shall, upon receipt of such papers, files and exhibits, receipt to the transmitting clerk therefor.

If the return made by the clerk of the court below is defective and all papers, exhibits, orders or records necessary to an understanding and decision of the case are not transmitted, either party may, on an affidavit specifying the defect or omission, apply to a justice of this court for an order requiring the clerk of the lower court to make further return and *supply the defect or omission without delay.*

(Note—Lower court does not lose jurisdiction to settle case when appeal has been perfected. See State ex rel Kelly V. Childress, 127 Minn. 533, 149 N. W. 550.)

RULE VI

ENDORSEMENT OF RETURN BY CLERK OF THE LOWER COURT. The clerk of the court below shall endorse upon each return to this court the name and post office address of the judge presiding in the lower court and of the attorneys for the respective parties.

RULE VII

ATTORNEYS; GUARDIANS AD LITEM; CONTINUE SUCH ON APPEAL. The attorneys and guardians ad litem of the respective parties in the court below shall be deemed the attorneys and guardians of the same parties, respectively, in this court, until others are retained or appointed and notice thereof served on the adverse party.

RULE VIII

PRINTING, SERVICE AND FILING RECORDS AND BRIEFS; PENALTY. 1. The appellant or party removing a cause to this court shall, within 60 days from the date of service of the notice of appeal upon opposing counsel, serve upon the opposite party the printed record and his brief, and file with the clerk of this court 15 copies of each thereof; and within 30 days from such service upon him the respondent shall serve his brief and file with the clerk 15 copies thereof; except that in all appeals from municipal courts the appellant or party removing a cause to this court shall have only 30 days from the date of the service of the notice of appeal upon opposing counsel within which to serve upon the opposite party and file the printed record and brief, and the respondent shall have only 20 days from such service upon him within which to serve and file his brief. Appellant may reply in typewritten or printed *form within ten days thereafter. The reply shall be* limited strictly to a concise answer to new points made by respondents. As to form and size typewritten records and briefs shall comply with these rules. The failure of appellant to comply with this rule in respect to printing and serving the record and his brief and filing the same with the clerk of this court within the time stated will be deemed an abandonment of the appeal, and the order or judgment appealed from will be affirmed or the appeal dismissed, as the court may deem proper.

In a criminal case where the trial court certifies a question to this court under the provisions of Minnesota Statutes, Section 632.10, the state shall furnish the record and the first brief in accordance with the preceding paragraph, except that the brief will contain no assignment of errors.

2. The record and briefs must be printed and the folios of the record numbered in the margin. The record shall consist of the pleadings, the findings or verdict, the order or judgment appealed from, the reasons stated by the trial court for the decision, if any, the notice of appeal and in cases where the sufficiency of the evidence is not involved, such abridgment of the settled case as will clearly and fully present the questions arising on the appeal. Even in cases where the sufficiency of the evidence is involved, only that pertinent to the issues to be presented need be printed. (For example, in personal injury cases where the amount of the recovery, if any, is not questioned, the medical and other testimony going only to the nature and extent of the injury should be omitted.) All matters in the return not necessary to a full presentation of the questions raised by the appeal shall be excluded from the printed record, and to that end the material testimony may be printed in narrative form, immaterial parts thereof omitted, and documentary evidence condensed. When the printed record is abridged, appellant shall list in the index the pages and parts of pages omitted from the settled case. At the point of omission in the printed record there shall be an indication as to the pages and parts of pages of the settled case not printed.

If the respondent deems the record so printed not sufficiently full to present properly the merits of the appeal, he may print a supplemental record, or instead in his brief refer to the folios or pages in the settled case, the original of which will be on file in this court, which he deems necessary and important.

3. The brief of appellant shall contain: (Follow skeleton outline of brief at end of these rules.)

(a) A subject index of the contents of the brief, with page references; and a table of the cases (alphabetically arranged), text books, and statutes cited, *with references to the pages where they are cited.*

(b) A summary of the nature and procedural history of the case stating the relief sought, the date of commencement of the action or proceeding, date of trial or hearing, date and nature of the order or judgment sought to be reviewed, and date of service of the notice of appeal. This statement must make it appear, in cases of appeal, that the order sought to be reviewed is appealable.

(c) A concise general statement of the question or questions involved omitting unnecessary details. **This rule is not satisfied by stating the question as it would be stated for an assignment of error. It should be stated as a court, after reading the record and briefs, would state the broad question which is presented for decision.** Each question shall be followed by a concise statement as to how the court below answered it, or modified the answer asserted by appellant to be the correct answer.

The questions and statements shall not ordinarily exceed 20 lines, must never exceed one page, and must be printed in type as large as 10 point without other matter appearing on the page.

(d) A concise statement of facts shown by the record so far as relevant to the grounds urged for reversal, modification or other relief. Where it is

claimed that a verdict, finding or decision is not sustained by the evidence, the evidence, if any, tending directly or by reasonable inference, to sustain such verdict, finding or decision, shall be summarized. All statements of fact shall indicate the folio and page of the printed record or settled case where same may be found.

(e) Errors assigned shall be separately and concisely stated and numbered, without repetition, and where a finding of fact is attacked as not sustained by the evidence, it shall be particularly specified.

(f) Citation of the cases claimed to be controlling and decisive of the issues. This does not mean a list of all cases cited. Ordinarily there will be only one or two that can be considered decisive.

(g) In appellant's brief the points urged for reversal, modification or relief shall be separately stated and numbered, and each point so stated and numbered shall be followed by the argument thereon. The law and facts presented on each point shall be clearly stated, with citation of the authorities and statutes relied upon. Quotations must be confined to what is presently relevant. Useless repetition is to be avoided. For example, if, on a given point, one authority is quoted, the others in accord should ordinarily be cited only, without further quotation.

4. It is the duty of counsel for appellant or moving party, in both brief and oral argument, to state the case and facts fairly, with complete candor, and as fully as necessary for consideration of the issues to be presented. **In the oral argument the appellant shall precede his statement of facts with a summary of the questions to be raised so that as the facts are stated their relation to the questions presented may at once be obvious.** Subject to the foregoing, the arrangement of the brief for respondent, and of the reply and supplemental briefs, if any, should so far as possible conform to that prescribed hereby for the brief of the appellant.

The respondent, if dissatisfied with the statement of facts by the appellant, may restate the facts with folio references. Where the appellant asserts that a verdict, finding or decision is not sustained by the evidence, the respondent shall state the evidence which he regards as tending directly or by reasonable inference to sustain the verdict, finding or decision.

5. Whenever the brief of the prevailing party or the record or supplemental record contains any unnecessary, irrelevant or immaterial matter, he shall not be allowed any disbursements for preparing or printing such unnecessary matter.

The party entitled to object to the taxation of disbursements in such case shall point out—**specifying the pages or folios**—the particular portions of the record, supplemental record or brief for which he claims the opponent is not entitled to tax disbursements.

6. **Corrections on briefs and records must be made prior to filing.** Failure to heed this admonition will be deemed sufficient ground for denying statutory costs.

RULE IX

SETTING OF CASES AND NOTICE; RESETTING. Upon the filing of the printed record and appellant's brief each case will be placed on the calendar for argument or submission on briefs, as the case may be, and the clerk will give prompt notice of the date thereof to the respective attorneys. A case may be reset by the court upon a showing of good reasons therefor.

RULE X

RECORD; PRINTING. Records and briefs shall be neatly and legibly printed in leaded small pica or long primer type with black ink on white or cream, opaque, unglazed paper, properly paged at the top and properly folioed at the side, with a margin on the outer edge of the printed page of 1½ inches. The printed page shall be 7 inches long and 3½ inches wide, and the paper page shall be 9 inches long and 7 inches wide. Each brief shall be over the name of the counsel preparing it. Each copy of such brief or record shall be stitched together and there shall be printed on the outside thereof its proper designation, the title of the cause, and on the record the names and addresses of the attorneys for all of the parties and on the brief only the names and addresses of attorneys preparing the same. Every record shall be accompanied by an adequate index of its contents, with particular reference to exhibits, which shall be so designated as to facilitate quick reference thereto.

One-half inch from the top of the cover page of each brief and printed record shall be printed the file number of the case in this court, in black-faced 18 point figures.

The prevailing party shall be allowed as a disbursement the reasonable amount which he has actually paid for printing record or brief.

RULE XI

DEFAULT OF APPELLANT; AFFIRMANCE OR DISMISSAL; CERTIFYING TO COURT BELOW. Respondent may apply to the court for judgment of affirmance or dismissal if the appellant shall fail or neglect to serve and file the printed record and his brief as required by these rules. No reversal will be ordered for the failure of the respondent to appear, unless the record presents reversible error. If appellant is in default for 30 days and respondent does not move for dismissal or affirmance this court will dismiss the appeal without notice and without the allowance of costs and disbursements. In all cases of dismissal of any appeal in this court the clerk shall issue a certified copy of the order of dismissal to the court below.

An appeal to the supreme court can only be dismissed by leave of the court or consent of the respondent. The respondent is entitled to a judgment finally disposing of the merits, and if there is an affirmance of an appeal from an order denying a new trial any questions which might have been raised on such an appeal will be the law of the case or res adjudicata on an appeal from the judgment. The theory of the rule requiring an appellant to make and serve his brief is that it contains his assignment of errors, and the right to claim error in a matter not appearing in such assignment is waived except objections to the jurisdiction of the court below over the subject matter. Schleuder v. Corey, 30 Minn. 501. But the dismissal of an appeal from the order denying a new trial does not have the same effect. Adamson v. Sundby, 51 Minn. 460. See also School District v. Alton, 175 Minn. 346, 348; Kozisek v. Brigham, 183 Minn. 457, 459. See cases cited in Shepherd's citations under 30 Minn. 501.

RULE XII

CERTIFYING RECORD; TEMPORARY INJUNCTION IN "LABOR DISPUTE." Upon the certification of a record to this court for review under the provisions of Minnesota Statutes, Section 185.15, the case shall be set for hearing in this court on the first available date and the proceedings in the case shall be given precedence over all other matters except older matters of the same character; and the rules of this court requiring the printing of record and briefs shall not apply to such cases, but typewritten records and briefs of a like number and size as required for printed records may be filed in lieu thereof.

RULE XIII

ORAL ARGUMENT; WHEN ALLOWED. On oral argument the appellant shall open and be entitled to reply.

In the following actions no oral argument is allowed:

1. Actions for the recovery of money only, or for specific personal property, where the amount or the value of the property involved in the appeal shall not exceed $500.
2. Appeals from orders involving only questions of practice, or forms or rules of pleading.
3. Appeals from the clerk's taxation of costs.
4. Appeals from municipal courts.

In the following actions appellant shall be entitled to 25 minutes in all and respondent to 15 minutes:

1. Actions for the recovery of money only, or for specific personal property, where the amount or value of the property involved in the appeal is more than $500 but does not exceed $1000.
2. Cases reviewing decisions of the Industrial Commission, Division of Employment Security, or other administrative bodies except the Board of Tax Appeals.
3. Cases to determine settlement for poor purposes.
4. Divorce cases where only alimony or custody, or both, are involved.

In all other cases appellant shall be entitled to 45 minutes in all and respondent to 30 minutes.

Application for leave to argue a case orally when oral argument is not otherwise permitted, or for an extension of the time allowed for oral argument as prescribed by this rule, may be made in writing at the time of filing the briefs.

Either party may submit a case on his part on his brief, and when no appearance is made on the day of argument, the printed record and briefs being on file, the case will be ordered so submitted.

When any member of the court is not present at the oral argument of a case, such case shall be deemed submitted to such member of the court on the record

and briefs therein and when 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.

RULE XIV

REMITTITUR AS MATTER OF COURSE; MAILING COPY OF DECISION OR ORDER; ENTRY OF JUDGMENT; TRANSMITTING REMITTITUR. Upon the reversal, affirmance, or modification of any order or judgment of a lower court by this court, there will be a remittitur to the lower court unless otherwise ordered. A remittitur shall contain a certified copy of the judgment of this court, sealed with the seal thereof, and signed by the clerk.

When a decision is filed or an order entered determining the cause, the clerk shall mail a copy thereof to the attorneys of the parties, and no judgment shall be entered until the expiration of 10 days thereafter, except that in criminal cases judgment may be entered immediately. The mailing of such copy shall constitute notice of the filing of the decision.

The remittitur shall be transmitted to the clerk of the court below when judgment is entered, unless written objection under Minnesota Statutes, Section 607.02, is made by the prevailing party and filed with the clerk of this court on or before the day set for the taxation of costs and disbursements.

RULE XV

COSTS AND DISBURSEMENTS; PREVAILING PARTY. Unless otherwise ordered the prevailing party shall recover costs as follows: 1. Upon a judgment in his favor on the merits, $25.00; 2. Upon dismissal, $10.00. (Who is prevailing party. See Sanborn v. Webster, 2 Minn. 277 (323); Allen v. Jones, 8 Minn. 172 (202).)

Costs and disbursements in all cases shall be taxed in the first instance by the clerk upon two days' notice, subject to review by the court, and inserted in the judgment. Costs and disbursements shall be taxed within 15 days after the filing of the decision.

Objections to taxation of costs and disbursements must be made in writing and filed. Appeals from the clerk's taxation of costs and disbursements must be served on opposing counsel and filed within six days from the date of the taxation by the clerk.

RULE XVI

JUDGMENT; ENTRY BY LOSING PARTY OR THE CLERK. In case the prevailing party shall neglect to have judgment entered within 15 days after notice of the filing of the opinion or order of the court, the adverse party, or the clerk of this court, may without notice, cause the same to be entered without inserting therein any allowance for costs and disbursements.

RULE XVII

JUDGMENT ROLL; PAPERS CONSTITUTING. In all cases the clerk shall attach together the bond and notice of appeal certified and returned by the clerk of the court below and a certified copy of the judgment of this court, signed by him; and these papers shall constitute the judgment roll.

RULE XVIII

EXECUTION; ISSUANCE AND SATISFACTION. Executions to enforce any judgment of this court may issue to the sheriff of any county in which a transcript of the judgment is filed and docketed. Such executions shall be returnable within 60 days from the receipt thereof by the officer. On the return of an execution satisfied in due form of law the clerk shall make an entry thereof upon the record.

RULE XIX

PROCESS AND WRITS OTHER THAN EXECUTIONS. All other writs and process issuing out of this court shall be signed by the clerk, sealed with the seal of the court, tested of the day when the same issued, and made returnable in accordance with the order of the court.

RULE XX

REHEARING; FILING APPLICATION. Applications for rehearing shall be made on petition setting forth the grounds on which they are made, and filed within ten days after the filing of the decision. They shall be served on the opposing party, who may answer within five days thereafter. A fee of $5.00 shall accompany all petitions for rehearing.

Nine copies shall be filed. They may be either typewritten or printed, and whether typewritten or printed shall comply with the rules for printed briefs as to size. Typewritten copies must be legible.

The filing of a petition for rehearing stays the entry of judgment in civil cases until the filing of the order of the court thereon. It does not stay the taxation of costs.

RULE XXII

MODIFICATION AND SUSPENSION OF RULES. Any of these rules may be relaxed or suspended by the court in term or a judge thereof in vacation, in particular cases, as justice may require.

MEMO. 1. Rules do not apply in habeas corpus appeals. Minnesota Statutes, Section 589.30.

2. The use of the supreme court file number of the case on all papers, and when communicating with the court or clerk, will aid greatly in giving prompt service.

3. *Rules governing applications for admission to* bail when application to trial court is denied, see State v. Russell, 159 Minn. 290, 199 N. W. 750.

SKELETON OUTLINE OF BRIEF

Read Rule VIII, Sec. 3, Subd. (a), (b), (c), (d), (e), (f), (g).

SUBJECT INDEX

Page

Procedural History of Case..... .....
Authorities Cited ....
Legal Issues or Questions Involved..... .....
Statement of Facts..... .....
Assignment of Errors..... .....
Citation of Cases Claimed to Be Controlling..... .....
Argument ....

PROCEDURAL HISTORY

See Rule VIII, Sec. 3, Subd. (b).

Tabulate information as follows:

1. Date of commencement of action:.....
2. Date of commencement of trial:.....
3. Date of order or judgment appealed from:.....
4. Date of service of notice of appeal:.....
5. Nature of action:.....
6. Nature of order or judgment from which appeal is taken: .....
7. Relief sought: .....
8. In addition to above, give in concise form any other essential information as to procedural history.

AUTHORITIES CITED

1. Statutes cited:
2. Minnesota decisions:
3. Decisions of foreign jurisdictions:
4. Textbook and digest references:

(Show page number where each case, statute, or text reference is cited in your brief.)

LEGAL ISSUES OR ABSTRACT QUESTIONS OF LAW INVOLVED

Do not confuse with assignment of errors. Several errors may involve only one question of law. See Rule VIII, Sec. 3, Subd. (c). See example below.

1. Is an oral lease of real estate for a term of one year, to commence **in futuro,** within the statute of frauds?

   Lower court held: In affirmative (or negative as case may be).

2. Is the taking of possession by the purchaser under oral contract for the purchase of land, coupled with the making of part payment of the purchase price, in reliance upon and with unequivocal reference to the vendor-vendee relationship, **without proof of irreparable injury through fraud,** sufficient to avoid the statute of frauds?

   Lower court held: In affirmative (or negative as case may be).

PLEASE NOTE, STATEMENT OF LEGAL QUESTIONS SHOULD RARELY EXCEED 20 LINES AND MUST NEVER EXCEED ONE PAGE, AND MUST BE PRINTED IN TYPE AS LARGE AS 10 POINT WITHOUT OTHER MATTER APPEARING ON THE PAGE.

STATEMENT OF FACTS

Be concise and follow instructions in Rule VIII, Sec. 3, Subd. (d).

ASSIGNMENT OF ERRORS

Errors should be separately and concisely stated and numbered, without repetition. Where a finding of fact is challenged as not sustained by the evidence, it shall be particularly specified.

CITATION OF CONTROLLING CASES

Appellant (or respondent as case may be) claims that the following case (or cases) is (are) controlling and decisive of the issues herein: (Do not here give a duplicate list of all the cases cited. Ordinarily there will be only one or two decisions that can be considered decisive.)

ARGUMENT

Divide your argument into divisions or sections to correspond to the issues or fundamental questions of law involved. Under each issue brief the point urged for reversal.

RULES OF THE SUPREME COURT FOR ADMISSION TO THE BAR

RULE I

STATE BOARD OF LAW EXAMINERS. The State Board of Law Examiners shall consist of seven members who shall be appointed by the Supreme Court each for a term of three years or until his successor is appointed and qualifies. From among its members the board shall elect a president and the Supreme Court shall designate a secretary. The board shall be charged with the duty of administering these rules and shall have authority to make its own rules not inconsistent herewith.

RULE II

GENERAL REQUIREMENTS OF APPLICANTS. No person shall be admitted to practice law who is not at least 21 years of age, a person of good moral character, a citizen of the United States and a resident of this state.

RULE III

ADMISSION BY EXAMINATION. Except as otherwise herein provided, no person shall be admitted to practice law until he shall have satisfactorily passed a written examination in subjects determined from time to time by order of the State Board of Law Examiners, after first obtaining the advice and recommendations of the State Bar Advisory Council. The board shall give adequate advance notice of any changes in the subjects on which applicants will be examined.

RULE IV

EXAMINATIONS; WHEN HELD. Examinations shall be held two times annually, beginning the third Monday in March and the third Monday in July at such place as the board may determine.

RULE V

EDUCATIONAL QUALIFICATIONS. The educational qualifications of all applicants desiring to take the examination shall be established by evidence satisfactory to the board showing:

1. Completion, prior to beginning a three year full time or equivalent part time course in law school, of three full years of study leading to a Bachelor of Arts or equivalent degree, or, prior to beginning of a four year full time or equivalent part time course in law school, of two full years of such study.

2. A scholastic average of C or better, or such higher or lower average as is required by the school being attended for a Bachelor of Arts or equivalent degree.

3. That the college or University attended was accredited by a regional association of colleges and secondary schools. If any part of the applicant's study was done in a junior college, normal school, or other school from which students on successfully completing a two year course of study are accepted into the junior class at any accredited college or university authorized to confer degrees, such applicant shall receive credit only for such courses as are fully recognized and only to the extent recognized by any such accredited institution granting such degrees.

4. Graduation with a Bachelor of Laws or equivalent degree from an approved law school within a period of four years prior to making the application.

RULE VI

APPROVED LAW SCHOOLS. An approved law school, within the meaning of these rules, shall be such law school as is or may become approved by the Section of Legal Education and Admissions to the Bar of the American Bar Association.

RULE VII

TRANSFER OF STUDENTS FROM ONE LAW SCHOOL TO ANOTHER. Where a student transfers from one approved law school to another, the subsequent law school shall allow no greater scholastic credit for work done in the prior law school than said law school would itself allow if said student had not transferred.

RULE VIII

APPLICATION FOR EXAMINATIONS. Every person desiring permission to take the examination must make written application to the board in the manner and in such form as the board shall prescribe. Such application shall be filed with the board in duplicate at least 30 days before the date of the examination and shall be accompanied by:

1. A fee of $50.00 in the form of a certified check, bank draft, or money order payable to the State Board of Law Examiners, which fee shall not be returnable in the event permission is denied.

2. A certificate from an approved law school showing graduation with a Bachelor of Laws or equivalent degree.

3. Affidavits of at least two attorneys residing and practicing in Minnesota, setting forth how long a time, when and under what circumstances such persons have known the applicant, details respecting the applicant's habits and general reputation and such other facts as may be proper to enable the board to determine the moral character of the applicant.

4. Evidence that he has been discharged under honorable conditions if the applicant has served in the armed forces.

RULE IX

EXAMINATIONS. 1. For the purpose of aiding the State Board of Law Examiners in the preparation, administration and prompt grading of bar examinations, the board is authorized within the limits of its appropriations:

(a) Subject to the approval of the Supreme Court, to employ a Director of Bar Admissions on a full-time or part-time basis; to prescribe his duties; and to fix his compensation;

(b) To secure examination questions, together with analyses of the questions, from qualified law teachers outside the State of Minnesota, and to pay a reasonable compensation for such questions;

(c) To employ from among the members of the bar of the State of Minnesota lawyers of high ability to serve as readers to grade the answers to examinations upon the basis of standards determined by the board for each question after consultation with the director, the reader concerned with the particular question, and representatives of the approved law schools within the state.

2. Success or failure on the examination depends upon the average grade achieved on all questions required to be answered, and for success an applicant must earn an average not less than the minimum satisfactory grade. The State Board of Law Examiners shall establish from time to time the grade ranges to be assigned by the readers to answers of varying qualities and shall fix the minimum satisfactory grade.

3. The Supreme Court shall appoint annually a Review Committee consisting of three members of the State Board of Law Examiners. The State Board of Law Examiners shall refer to each member of the committee for independent grading the examination papers of not less than the top 20% of the applicants who fail to achieve a passing grade. Without knowing the grades assigned by the readers or by the other members of the Review Committee, each member of the Review Committee shall assign a grade to each answer pursuant to the established grade ranges, and shall thereby arrive at an average grade for each applicant. The final grade on review shall be the average of the grades assigned that applicant by the members of the Review Committee. An applicant shall be considered as having passed the examination if the final grade so determined is equal to or exceeds the minimum satisfactory grade fixed by the State Board of Law Examiners.

RULE X

RE-EXAMINATIONS. An applicant who has failed to pass the examination may take a re-examination at any regular examination date within the next ensuing two years upon presenting such additional affidavits or certificates as the board may require. He shall give to the board notice of his desire to take such examination by making application on the forms provided by the board for that purpose at least 30 days before the time for the commencement of such examination, and shall accompany the application with a fee of $50.00 payable to the State Board of Law Examiners as provided in Rule VIII. No applicant who has failed in three examinations shall be permitted to take a further examination.

RULE XI

ATTORNEYS FROM OTHER STATES; HOW ADMITTED. An attorney-at-law duly admitted to practice in another state or territory or in the District of Columbia desiring admission to the practice of law in this state shall submit his application to the board upon forms prescribed by the board. Upon proof that he has been admitted to practice in the highest court of such other jurisdiction or jurisdictions and has, as his principal occupation, been actively engaged in practicing law therein, or has been engaged in full-time law teach-

ing in an approved law school or schools, or a combination of both, for at least five years next preceding his application, the examination may, upon the recommendation of the board, and in the discretion of the court, be waived and the applicant admitted to the practice of law upon motion without examination.

Such attorney shall accompany his application by the following:

1. A certificate of a judge of a court of record and affidavits of two practicing attorneys of said state, territory or district, that the judge and attorneys so certifying are well acquainted with such applicant, that he is a person of good moral character and that he has been actively engaged in practicing law or teaching in such state, territory or district for the period above prescribed.

2. Certificate of his admission to the bar in said state, territory or district.

3. Certificate from the proper court or body therein that he is in good standing and not under pending charges of misconduct.

4. A fee of $150.00 in form of check or money order payable to the order of the State Board of Law Examiners, no part of which shall be refunded should the application be denied.

If the board doubts the character or qualifications of the applicant it may impose such other tests as in its discretion may seem proper.

When an application for admission is made by a person admitted to practice law in other states or territories, the board may employ the National Conference of Bar Examiners to make investigation and report upon said application, and may pay to said National Conference of Bar Examiners a reasonable fee for its services in making such investigation and report.

An attorney-at-law duly admitted to practice in another state or territory or in the District of Columbia desiring admission to the practice of law in this state but who has not been actively engaged in the practice of law or full-time law teaching as his principal occupation for the period prescribed herein must be examined for admission in accordance with rules prescribed herein for those not admitted to practice of law anywhere (except that his application need not be made within four years of his graduation from law school) and in addition must meet all the requirements of this rule (except that the fee shall be $50.00).

RULE XII

ADDITIONAL INVESTIGATION OF APPLICANTS. As to any and all persons who apply to take examination, or who apply for admission without examination, the board may make such further inquiry and investigation, and require such further evidence regarding moral character and educational qualifications as it deems proper. In obtaining the required or desired information, the board will obtain the aid of the officers of or committees of bar associations whenever available.

RULE XIII

OPINION AS TO SUFFICIENCY OF QUALIFICATIONS. Any person or any approved law school may at any time request of the State Board of Law Examiners an opinion as to the sufficiency of educational or moral qualifications of an applicant. The board shall issue a ruling or opinion thereon, such to be, however, without prejudice to a later or different ruling of said board if additional evidence is obtained or changes occur in the applicant's qualifications prior to his sitting for the state bar examination.

RULE XIV

STATE BAR ADVISORY COUNCIL. The State Bar Advisory Council shall consist of the following:

1. The chairman of the Legal Education Committee of the Minnesota State Bar Association.

2. A past president of the Minnesota State Bar Association, to be designated and appointed by the President of the Minnesota State Bar Association.

3. Two members of the State Board of Law Examiners, to be designated and appointed by the Supreme Court.

4. The deans (or representatives appointed by them) of each of the approved law schools within the State of Minnesota.

5. The Secretary of the State Board of Law Examiners, who shall serve as the secretary of the State Bar Advisory Council.

Said council shall consider matters of general policy concerning admission to the bar, including proposed amendments to the rules for admission to the bar, and other matters either specifically referred to it or deemed worthy of consideration by it, and shall make such recommendations to the Supreme Court concerning matters under consideration as it deems advisable.

The secretary of the State Board of Law Examiners shall call a joint meeting of the council and the board at least once each year. In addition thereto, the council shall meet at such other time as it may be called together by the Supreme Court, the State Board of Law Examiners, or on its own motion.

The members of the State Bar Advisory Council shall receive no compensation by way of fees or expenses.

REGISTRATION FEES

Order of October 5, 1961

DECLARATION

WHEREAS, Minnesota does not have an integrated bar but does have an active and effective voluntary bar association in which a large percentage of all active attorneys at law practicing in this state are members, and

WHEREAS, In the past the expenses of conducting examinations for admissions to the practice of law and the expenses incident to conducting disciplinary proceedings have been paid in part by a biennial appropriation of the legislature out of the general tax sources of the state; in part by a fee exacted from applicants for admission to the bar; and in part by contributions received from the state bar association, and

WHEREAS, It is improper to continue accepting money for these purposes either from the general tax sources of the state or from contributions of a voluntary bar association that does not include as members all practicing attorneys of the state as these obligations ought of right to be borne by all members of the bar, whether associated with the state bar association or not, and

WHEREAS, There is now no current list of those who are authorized to practice law in this state;

NOW, THEREFORE, By virtue of and under the inherent power of this court to regulate the practice of law in this state, these rules are adopted in order that there may be on file annually a current list of all those authorized to practice law in this state and in order that the expenses of conducting examinations for admissions to the bar and conducting disciplinary proceedings may be borne by all attorneys at law authorized to practice law in this state.

RULE I

PROMULGATION OF RULES. Admission to the bar of the State of Minnesota and disciplinary proceedings shall be conducted according to rules promulgated by this court.

RULE II

ANNUAL REGISTRATION FEE. In order to defray the expenses of examinations and investigations for admission to the bar and disciplinary proceedings, over and above the amount paid by applicants for such admission, each attorney admitted to practice law in this state and those members of the judiciary who are required to be admitted to practice as a prerequisite to holding office shall hereafter annually, on or before the first day of January of each year after his original admission, pay to the clerk of the supreme court a registration fee in the sum of Seven Dollars ($7.00) or in such sum as the court may annually hereafter determine.

RULE III

FAILURE TO PAY FEE; PENALTY. Upon failure to pay such fee, the right to practice law in this state shall be automatically suspended, and no individual shall be authorized to practice law in this state or to in any manner hold himself out as qualified or authorized to practice law while in default in the payment of such registration fee. Any individual who shall violate this rule shall be subject to all the penalties and remedies provided by law for the unauthorized practice of law in the State of Minnesota. It shall be the duty of each member of the judiciary to enjoin persons from appearing and practicing in his court whose failure to register has come to the attention of such court.

RULE IV

NOTICE. Annually on or before December 1 of each year, the clerk of the supreme court shall mail to each individual then authorized to practice law, who has not paid such registration fee, at his last

known address, a statement showing the amount of the registration fee required for the next ensuing year. Failure to receive such notice shall not excuse payment of such fee. Every attorney at law shall immediately notify the clerk of this court of any change of address.

RULE V

REINSTATEMENT. The right to practice law may be reinstated by the court after suspension upon application and upon payment of all delinquent registration fees and the additional sum of Five Dollars ($5.00). This court may, in hardship cases, waive payment of delinquent dues.

RULE VI

CERTIFICATE. Upon payment of the original registration fee, the clerk of the supreme court shall issue and deliver to the person paying the same a certificate in such form as may be provided by this court, showing that such individual is an attorney at law in good standing and authorized to practice in the State of Minnesota. Each year after issuance of the original certificate, the clerk shall, upon payment of the annual registration fee, deliver to the individual so paying the same a suitable sticker or certificate showing the current good standing of such attorney.

RULE VII

COLLECTIONS BY BAR ASSOCIATION. The Minnesota State Bar Association may, if it so desires, collect the registration fee provided herein from such of its members who consent thereto and remit the same to the clerk of this court in lieu of payment by the member individually. In the event such payment is to be so made, the association shall, on or before October 31 of each year, transmit such remittance to the clerk, together with a complete list of the names and addresses of all members for whom such payment is made. Upon receipt of such payment, each member for whom payment is made shall receive from the clerk of this court the same certificate of good standing as is received by an attorney at law individually making such payment.

RULE VIII

SPECIAL FUND. All money collected from applicants for admission to the bar or as an annual registration fee as provided herein shall be deposited by the clerk in a special fund, as directed by this court, and shall be disbursed therefrom only upon vouchers signed by a member of this court.

RULE IX

NONRESIDENT COUNSEL. Nothing herein shall prevent any court in this state from granting special permission to nonresident counsel to appear and participate in a particular action or proceeding in association with an authorized attorney of this state as provided by Minn. St. 481.02, subd. 6.

APPENDIX 7

DISTRICT COURT RULES

CODE OF RULES
for the
DISTRICT COURT OF MINNESOTA

As adopted by the District Judges pursuant to section 484.33, as amended.

PART I. GENERAL RULES
PART II. RULES FOR REGISTRATION OF LAND TITLES

PART I
General Rules

RULE 1

ACTIONS BY REPRESENTATIVES; ATTORNEY'S FEES. In actions for personal injury or death by wrongful act, brought by persons acting in a representative capacity, contracts for attorney's fees shall not be regarded as determinative of fees to be allowed by the court.

RULE 2

ACTIONS FOR DEATH BY WRONGFUL ACT. Every application for the appointment of a trustee of a claim for death by wrongful act under section 573.02, shall be made by the verified petition of at least one heir of the decedent. The petition shall show the dates and places of the decedent's birth and death; his address at the time of his death; the name, age and address of each of his heirs; and the name, age, occupation and address of the proposed trustee. The petition shall also show whether or not any previous application has been made in any court for the appointment of a trustee for such claim, and if a previous application has been made, the facts with reference thereto and its disposition shall also be stated. The written consent of the proposed trustee to act as such shall be endorsed on or filed with such petition.

The petition will be heard upon such notice, given in such form and in such manner and upon such persons as may be determined by the court, unless waived by all heirs or the court.

The petition, any order entered thereon, and the trustee's oath, will be entitled: "In the matter of the appointment of a trustee for the heirs of _____, decedent."

If the trustee, after his appointment and qualification, commences an action for death by wrongful act in the District Court of his appointment, the summons and complaint when filed will be given the same file number as the petition and order for the trustee's appointment. If the venue of such action be later changed to another county of the State of Minnesota, jurisdiction over the trust will thereupon be transferred in the same file to the District Court of that county.

If the trustee, after his appointment and qualification, commences an action in the District Court of a county other than that in which he was appointed, a certified copy of the petition, the order entered thereon and the oath shall be filed in the District Court where such action be commenced, at the time the summons and complaint are filed therein, and jurisdiction over the trust will thereupon be transferred to such District Court.

Application for the distribution of money recovered under section 573.02 shall be by verified petition of the trustee. Such petition shall show the amount which has been received upon action or settlement; a detailed statement of disbursements paid or incurred, if any; the amount, if any, claimed for services of the trustee and of his attorney; the amount of the funeral expenses and of demands for the support of the decedent; the name, age and address of each heir and the share to which each is entitled.

If an action were commenced, such petition shall be heard by the court in which the action was tried, or in the case of a settlement, by the court in which the action was pending at the time of settlement. If an action were not commenced, the petition shall be heard by the court in which the trustee was appointed.

The petition will be heard upon such notice, given in such form and in such manner and upon such persons as may be determined by the court, unless waived by all heirs or the court.

The court by order, or by decree of distribution, will direct distribution of the money to the persons entitled thereto by law. Upon the filing of a receipt from each distributee for the amount assigned to him, the trustee shall be discharged.

The foregoing procedure will, so far as can be applicable, also govern the distribution of money recovered by personal representatives under the *Federal Employers' Liability Act* (45 U.S.C.A. 51) and under section 219.77.

RULE 3

ACTION ON BEHALF OF MINORS; SETTLEMENT. (a) In making application for the approval of a settlement of any action brought on behalf of a minor child, the parent or guardian ad litem shall present to the court:

(1) A verified petition, stating the age of the minor, the nature of the action, if for personal injuries to what extent the minor has recovered therefrom, the reasons justifying the proposed settlement, the expenses which it is proposed to pay out of the amount to be received, the nature and extent of the services rendered by the attorney representing the minor, whether or not an action has been commenced on behalf of the parent or guardian, and, if so, what settlement, if any, has been made in that action, with itemized expenses incurred on behalf of the minor;

(2) Satisfactory evidence that the settlement is for the best interest of the minor;

(3) If the action be for personal injuries, an affidavit of the attending physician showing the nature, extent, and probable duration of the injuries caused by the accident, and the extent of the recovery which has been made therefrom at the time of the presentation of the application.

The minor shall appear before the court at the time the application is made, and no order approving any settlement shall be made where the action is one for personal injuries until the court has seen and had an opportunity to examine the minor.

Before any parent or guardian ad litem in any such action shall receive any money, he shall file a bond in an amount and with such sureties as shall be approved by the court, running to the minor as obligee, and conditioned that he will duly account for and pay over the sum received for the benefit of such minor to said minor upon his coming of age, or to his general guardian during his minority, if one shall be appointed; provided, that upon petition of said parent, the court may, in its discretion, order that in lieu of such bond any money so received shall be deposited as a savings account in a banking institution or trust company, together with a copy of the court's order, and the deposit book filed with the clerk of court, subject to the order of the court; and no settlement or compromise of any such action shall be valid unless the same shall be approved by a judge of the court in which such action is pending.

Unless otherwise ordered, application for approval of such settlement may be made ex parte.

(b) In applications for approval of settlement of an action brought under section 540.06 or section 540.08 on behalf of a minor child or ward, when settlement is approved by the court, attorney fees will not be allowed in any amount in excess of 33⅓ percent of the recovery. No other deductions may be made from the settlement, except under special circumstances upon proper allowance by the judge approving the settlement.

(c) Stipulations for judgment shall be deemed settlements within the meaning of this rule. (Adopted at annual meeting of district court judges held in Minneapolis on July 5-6, 1932, and June 21, 1949.)

RULE 4

ATTORNEYS AS SURETIES. No practicing attorney shall be accepted as surety on a bond or undertaking required by law.

RULE 5

BANKS IN LIQUIDATION, SALE OF ASSETS, FINAL DIVIDENDS. Petitions for orders approving the sale or compounding of doubtful debts, or the sale of real or personal property, or authorizing a final dividend, of any bank, state or national, in liquidation, shall be heard after notice of all interested persons given as herein provided.

Upon the filing of the petition, the court shall enter an order reciting the substance of the petition and the time and place for hearing thereon, and advising all interested persons of their right to be heard.

A copy of the order shall be published once in a legal newspaper published near the location of the bank in liquidation, which publication shall be made at least ten days prior to the time fixed for the hearing; or the court may direct notice to be given by such other method as it shall deem proper. If it shall appear to the court that delay may prejudice the rights of those interested, the giving of notice may be dispensed with.

RULE 6

CONTINUANCE. No civil case on the general term calendar shall be continued by consent of counsel only, or otherwise than by order of the court for cause shown; provided that in counties having an assignment clerk the special rules of such county shall govern.

RULE 7

COSTS, GRANTING OR DENYING A MOTION. On granting or denying a motion the court may award costs, not exceeding $25, which, in the discretion of the court, may be absolute or to abide the event of the action.

RULE 8

DEPOSITIONS. Commissions to take testimony without the state may be issued on notice and application to the court either in term time or in vacation. Within five days after the entry of the order for a commission the party applying therefor shall serve a copy of the interrogatories proposed by him on the opposite party. Within five days thereafter the opposite party may serve cross-interrogatories. After the expiration of the time for serving cross-interrogatories, either party may within five days give five days' notice of settlement of interrogatories before the court. If no such notice be given within five days, the interrogatories and cross-interrogatories, if any have been served, shall be settled by the court. When a commission is applied for and the other party wishes to join therein, interrogatories and cross-interrogatories to be propounded to his witnesses may be served and settled or adopted within the same time and in the same manner as those to the witnesses of the party applying. After the interrogatories are settled, they shall be engrossed and numbered by the party proposing the interrogatories in chief; and the engrossed copy or copies shall be signed by the officer settling the same, annexed to the commission and forwarded to the commissioner. If the interrogatories and cross-interrogatories are adopted without settlement, engrossed copies need not be made, but the originals or copies served may be annexed and forwarded immediately with the commission.

RULE 9

DIVORCE ACTIONS. (a) Every application for temporary alimony, support, custody of children, attorneys' fees and disbursements, or for similar relief prior to trial, the notice of hearing thereon, the affidavit opposing such application, and the order thereon shall be in the following form so far as may be applicable.

STATE OF MINNESOTA
COUNTY OF .....
.....
Plaintiff,
v.
APPLICATION FOR TEMPORARY ALIMONY, ETC.
.....
Defendant.

DISTRICT COURT
.....JUDICIAL DISTRICT
File No. .....

STATE OF MINNESOTA
COUNTY OF.....

————, the plaintiff-defendant herein, being first duly sworn, respectfully represents to the court that:

1. The parties were married on ————; the wife's age is ——; the husband's age is——.
2. The parties have been separated —— months, during which the husband has paid $—— to the wife.
3. (a) There are —— children of the parties, aged ——, ——, ——, ——, ——, years now in custody of the wife-husband at ————————.
   (b) For the best interests of the children, they should be in custody of the husband-wife.
   (c) The husband-wife has —— minor children of a prior marriage.
4. The property of the parties, its market value and encumbrances are:

Item	Market Value Husband's	Wife's	Joint Tenancy	Encumbrances
Homestead	$——	$——	$——	$——
Other realty	$——	$——	$——	$——
Household goods	$——	$——	$——	$——
Automobiles	$——	$——	$——	$——
Stocks, bonds, notes	$——	$——	$——	$——
Cash and bank credits	$——	$——	$——	$——
Claims, accounts receivable, etc.	$——	$——	$——	$——
Total	$——	$——	$——	$——

5. (a) Unsecured debts of husband only not included above ..... $——
   (b) Unsecured debts of wife only not included above ..... $——
   (c) Unsecured joint debts not included above ..... $——
6. The necessary weekly-monthly expenses are:

		Husband's	Wife's	Children's (If Separate)
A.	Rent	$——	$——	$——
B.	Realty taxes	$——	$——	$——
C.	Realty contract payments	$——	$——	$——
D.	Personalty contract payments	$——	$——	$——
E.	Fuel	$——	$——	$——
F.	Food	$——	$——	$——
G.	Utilities	$——	$——	$——
H.	Insurance	$——	$——	$——
I.	Clothing	$——	$——	$——
J.	Transportation	$——	$——	$——
K.	Medical and Dental	$——	$——	$——
		$——	$——	$——
		$——	$——	$——
		$——	$——	$——
	Total	$——	$——	$——

7. The family home contains —— bedrooms; is owned-rented by the parties; and is now occupied by ————————
8. (a) Husband's total weekly-monthly income after deductions is ..... $——
   (b) Wife's total weekly-monthly income after deductions is..... $——
   (c) Children's total weekly-monthly income after deductions is..... $——
9. (a) A reasonable amount for support for——children is per week-month $——.
   (b) A reasonable amount for temporary alimony is $—— per week-month.
   (c) The dates for payment should be————————.
   (d) Husband's weekly-monthly necessary living expenses will be $————————.
10. $—— has been paid on wife's attorney's fees and disbursements.
11. $—— has been paid on husband's attorney's fees and disbursements.
12. $—— is reasonable for wife's temporary attorney's fees plus $—— for disbursements.
13. Additional Material Facts:

WHEREFORE, the applicant prays for an order granting such relief prior to trial as may be just and lawful.

Subscribed and sworn to before me this ——day of————, 19— ————————

Plaintiff-Defendant

Notary Public, —— County, Minn.
My commission expires ————

STATE OF MINNESOTA
COUNTY OF ————————
————————
Plaintiff,
vs.
————————
Defendant.

DISTRICT COURT
———— JUDICIAL DISTRICT
File No. ————

Notice of Hearing Application for Temporary Alimony, etc.

To The Above Named Defendant-Plaintiff

Notice is hereby given that the foregoing application will be heard and that the applicant will move,

upon the grounds therein stated, for an order granting relief therein prayed for, before the above named court —— at a Special Term thereof —— in Chambers —— in ———— Room No. ————, Court House, ————, Minnesota, on ——, 19—, at —— o'clock —— M., or as soon thereafter as counsel can be heard.

Attorney for Plaintiff-Defendant
Address ————
Phone No. ————

Caveat. The application will not be heard until after it and proof of service of it and of the notice have been filed with the clerk, and the entire file presented to the court. Upon the initial filing, the clerk's file number must be obtained and thereafter typewritten on each subsequent document.

STATE OF MINNESOTA
COUNTY OF ————
———— Plaintiff,
vs.
———— Defendant.
DISTRICT COURT
————JUDICIAL DISTRICT
File No. ————

ORDER FOR
TEMPORARY ALIMONY, ETC.

An application having been duly made for relief prior to trial, such application having duly come on for hearing on ————, 19—, before the undersigned judge of the above named court, and the matter having been duly submitted; ————, Esq., appearing in support of the application and ————, Esq., in opposition thereto;

It Is Ordered:

1. That the defendant-plaintiff pay to plaintiff-defendant, the following at the times, for the purposes, and in the manner specified:

$—— for temporary attorney's fees payable————

$—— for disbursements herein payable————

$—— per week-month for alimony payable————

$—— per week-month for support of the children payable ————

2. That the custody of the minor children is awarded temporarily to the plaintiff-defendant, subject to reasonable visitation by the defendant-plaintiff ————

3. That the plaintiff and defendant and their agents and servants are, and each is, enjoined and restrained from:

(a) doing, or attempting to do, any act of injuring, maltreating or vilifying the adverse party, or any of the children, or otherwise molesting any of them in any way.

District Judge
Dated ————, 19—

(b) No action for divorce based upon incurable insanity shall be heard until a general guardian of the person of the defendant (or a guardian ad litem when the appointment of a general guardian appears impracticable) shall have been appointed, and service of the summons and notice of the pendency of the action shall have been made upon such guardian, upon defendant's nearest blood relative, and upon the superintendent of the institution in which the defendant is confined. If from the sheriff's return and the proofs submitted it shall appear to the satisfaction of the court that personal service cannot be made upon the nearest blood relative of the defendant, then upon order of the court the summons and notice of the pendency of the action shall be served upon such nearest blood relative in the manner and as directed by the court; and no hearing in any such case shall be had until after the lapse of 30 days from the time of such service.

(c) Orders for publication of summons in actions for divorce will be granted only upon an affidavit of the plaintiff made as provided by statute and showing specifically what efforts have been made to ascertain the residence of the defendant for the purpose of making personal service.

RULE 10

EX PARTE ORDERS. No order shall be made ex parte unless there shall be presented with the application therefor an affidavit showing whether any previous application has been made for the order requested, or for a similar order; and if there has been a previous application, to what ccurt or judge it was made, and the determination made thereof, and what new facts, if any, are shown upon such subsequent application that were not previously shown. For a failure to comply with the provisions of this rule, the order made on subsequent application may be vacated.

RULE 11

EXPERT WITNESS FEES. In taxation of costs in civil cases a fee of $10 per day may be allowed for expert witnesses. Under special circumstances such fee may be increased in the discretion of the court, but not to exceed $50 per day. The skill of the expert and the time required to attend court and testify may be considered by the judge in determining whether such special circumstances exist.

RULE 12

FILING PAPERS. (a) All affidavits, notices, and other papers designed to be used in any cause shall be filed with the clerk prior to the hearing of the cause unless otherwise directed by the court.

(b) All orders, together with the affidavits and other papers upon which the same are based, which orders are not required to be served, shall be filed forthwith in the office of the clerk. Orders required to be served shall be so filed within three days after the service thereof, and, unless seasonably served and filed, may be vacated.

(c) All orders and findings, whether prepared by the judge or by counsel by direction of the judge, shall be typewritten in manifold; and when the original is filed a copy shall be furnished to each attorney or firm of attorneys appearing in the case. The observance of this rule shall not be deemed a substitute for statutory notice of the filing of a decision or order.

(d) No papers on file in a cause shall be taken from the custody of the clerk otherwise than upon order of the court.

(e) When judgment is entered in an action upon a promissory note, draft, or bill of exchange under the provisions of section 544.07 such promissory note, draft, or bill of exchange shall be filed with the clerk and made a part of the files of the action.

RULE 13

FORM OF PAPERS. (a) On process or papers to be served the attorney or a party appearing in person, besides subscribing or indorsing his name, shall add thereto the name of the city, town, or village in which he resides, and the particular location of his place of business by street, number, or otherwise; and if he shall neglect to do so, papers may be served on him through the mail, by directing them according to the best information concerning his residence conveniently available.

(b) The attorney or other officer of the court who prepares any pleading, affidavit, case, bill of exceptions, or report, decree, or judgment, exceeding two folios in length, shall distinctly number and mark each folio of 100 words in the margin thereof, or shall number the pages and the lines upon each page; and all copies either for the parties or the court shall be numbered and marked so as to conform to the originals. All typewritten matter shall be carefully and legibly typed on plain, unglazed, white paper of good texture, made with well inked ribbon and carbon, and shall be double spaced. Any pleading, affidavit, bill of exceptions, or case not thus prepared may be returned by the party on whom the same is served or by the court.

(c) All pleadings and other papers filed shall be plainly endorsed on the outside thereof with the title of the case, matter, or proceedings in which they are so filed; and the name or character of the paper shall be endorsed thereon below the title, so that the same may be clearly identified without opening; and the clerk may refuse to receive for filing any paper not so endorsed.

RULE 14

FRAMING ISSUES. In cases where the trial of issues of fact by a jury is not required by section 546.03, if either party shall desire a trial by jury, such party shall, within ten days after issue joined, give notice of a motion to be made upon the pleadings that the whole issue, or any specific question of fact involved therein, be tried by a jury. With the notice of motion shall be served a distinct and brief statement of the questions of fact proposed to be submitted to the jury for trial, in proper form to be incorporated in the order, and the judge may settle the issues, or may appoint a referee to settle the same. The judge, in his discretion, may thereupon make an order for trial by jury, setting forth the questions of fact as settled, and such questions only shall be tried by the jury, subject to the right of the

court to allow an amendment of such issues upon the trial in like manner as pleadings may be amended upon trial.

RULE 15

GARNISHMENTS. (a) Garnishments or attachments shall not be discharged through a personal bond under section 571.30 without one day's written notice of the application therefor to the adverse party; but if a surety company's bond is given, notice shall not be required.

(b) Judgment against a garnishee shall be entered only upon notice to the garnishee and the defendant, if known to be within the jurisdiction of the court, showing the date and amount of the judgment against the defendant, and the amount for which plaintiff proposes to enter judgment against the garnishee after deducting such fees and allowances as the garnishee is entitled to receive. If the garnishee appears and secures a reduction of the proposed judgment, the court may make an appropriate allowance for fees and expenses incident to such appearance.

RULE 16

ILLEGITIMACY PROCEEDINGS. Upon certification to and filing of record in the district court of any proceeding to determine the paternity of an illegitimate child, the clerk shall immediately notify by mail the director of social welfare of the pendency of the proceedings.

RULE 17

JUDGMENT, ENTRY BY ADVERSE PARTY. When a party is entitled to have judgment entered in has favor upon the verdict of a jury, report of a referee, or decision or finding of the court, and neglects to enter the same for ten days after the rendition of the verdict or notice of the filing of the report, decision, or finding; or, in case a stay has been ordered, for ten days after the expiration of such stay, the opposite party may cause judgment to be entered on five days' notice to the party entitled thereto.

RULE 18

MECHANIC'S LIEN, INTERVENTION. Leave to intervene in an action to foreclose a mechanic's lien shall be granted only on motion and notice to the owner of the land sought to be charged.

RULE 19

NE EXEAT. Upon the allowance of a writ of ne exeat the court shall require an undertaking or bond in the penal sum of not less than $250.00, to be approved by the court. Such bond shall be conditioned upon payment to the party detained of such damages as he may sustain by reason of the writ, if the court shall eventually decide that the party applying was not entitled thereto.

RULE 20

NOTICE OF MOTION. Rule 20, to extent inconsistent, is superseded, in respect of Practice and Procedure in the District Courts, by Rule 7.02 of the Rules of Civil Procedure.

RULE 21

ORDER TO SHOW CAUSE. When a motion can be made upon notice, an order to show cause will not be granted, except upon showing of some exigency whereby delay for the time prescribed for the notice of motion will cause injury, or render the relief sought ineffectual.

Such exigency must also be stated in the order as ground for shortening the notice; and if on the hearing it appears that there was no such ground, the order may be discharged.

Such order must be accompanied by notice of motion setting forth the grounds on which the relief asked is sought, and substantially in the ordinary form of such notices, except that the time of hearing, if mentioned in the notice otherwise than by reference to the order, shall be the time fixed by the order, the only scope of the order in such case being to shorten and fix the time for hearing the motion.

RULE 22

PLEADINGS. (a) In all cases where application is made for leave to amend a pleading or for leave to answer or reply after the time limited by statute, or to open a judgment and for leave to answer and defend, such application shall be accompanied with a copy of the proposed amendment, answer, or reply, as the case may be, and an affidavit of merits and be served on the opposite party.

(b) In an affidavit of merits made by the party the affiant shall state that he has fully and fairly stated the facts in the case to his counsel, that he has a good and substantial defense or cause of action on the merits, as he is advised by his counsel after such statement and verily believes true; and he shall give the name and place of residence of such counsel.

An affidavit shall be made by counsel, who shall state therein that from the showing of the facts made to him by the party he verily believes that such party has a good and substantial defense or cause of action on the merits.

Pleadings. NOTE: Rule 22 (c), (d), to extent inconsistent, is superseded, in respect to Practice and Procedure in the District Courts, by Rules 7.01, 10.02, 12.02, of the Rules of Civil Procedure.

RULE 23

RECEIVERS. (a) All actions or proceedings for the sequestration of the property of corporations or for the appointment of receivers thereof, except actions or proceedings instituted by the attorney general in behalf of the state, shall be instituted in the county in which the principal place of business of said corporation is situated; provided, that if the action is not instituted in the proper county, for the convenience of witnesses and to promote the ends of justice, the venue may be changed by order of court.

(b) Receivers, trustees, guardians, and others appointed by the court to aid in the administration of justice shall be wholly impartial and indifferent to all parties in interest, and selected with a view solely to their character and fitness. Except by consent of all parties interested, or where it clearly appears that prejudice will otherwise result, no person who is or has been during the preceding year a stockholder, director, or officer of a corporation shall be appointed as receiver for such corporation. Receivers shall be appointed only upon notice to interested parties, such notice to be given in the manner ordered by the court; but if it shall be clearly shown that an emergency exists requiring the immediate appointment of a temporary receiver, such appointment may be made ex parte.

(c) Every receiver after his appointment shall give a bond to be approved by the court in such sum and conditioned as the court shall direct, and shall make and file with the clerk an inventory and estimated valuation of the assets of the estate in his hands; and, unless otherwise ordered, appraisers shall then be appointed and their compensation fixed by order of the court.

(d) Claims of creditors of corporations, the subject of sequestration or receivership proceedings, shall be duly verified and filed in the office of the clerk of court. The court, by order, shall fix the time for presentation, examination, and adjustment of claims and the time for objecting thereto, and the order shall be published as therein directed. Written objection to the allowance of any claim may be made by any party to the proceeding by serving a copy of such objection upon the claimant or his attorney. Where no objection is made within the time fixed by said order, the claim may stand admitted and be allowed without proof. Issues of law and fact shall be tried as in other cases.

(e) Every receiver shall file an annual inventory and report showing the condition of the estate in his hands and a summary of his proceedings to date. The clerk shall keep a list of receiverships and notify such receiver and the court when such reports are due.

(f) When an attorney has been appointed receiver, no attorney for such receiver shall be employed except upon the order of the court, which shall be granted only upon the petition of the receiver, stating the name of counsel whom he wishes to employ and showing the necessity for such employment.

(g) No receiver shall employ more than one counsel, except under special circumstances requiring the employment of additional counsel; and in such case only after an order of court made on a petition showing such circumstance, and on notice to the party or person on whose behalf or application the receiver was appointed. No allowance shall be made to any receiver for expenses paid or incurred in violation of this rule.

(h) No receiver or other trustee appointed by the court, nor any attorney acting for such receiver or trustee, shall withdraw or use any trust funds to apply on his compensation for services except on written order of court, duly made after such notice as the court may direct, and filed in the proceeding.

(i) All applications for the allowance of fees to receivers and their attorneys shall be accompanied by an itemized statement of the services performed and the amount charged for each item shown.

Compensation of receivers and their attorneys shall be allowed only upon the order of the court after such notice to creditors and others interested as the court shall direct, of the amounts claimed as compensation

and of the time and place of hearing the application for their allowance.

(j) Every receiver shall take a receipt for all disbursements made by him in excess of $1.00, shall file the same with his final account, and shall recite such filing in his verified petition for the allowance of such account.

RULE 24

RESTRAINING ORDER, BOND. Before any restraining order shall be issued, except in aid of writs of execution or replevin, or in actions for divorce, the applicant shall give a bond in the penal sum of at least $250.00, executed by him or by some person for him as a principal, approved by the court and conditioned for the payment to the party restrained of such damages as he shall sustain by reason of the order, if the court finally decides that the applicant was not entitled thereto.

RULE 25

SERVICE, ADMISSION OF ATTORNEY. Rule 25 is superseded in respect of Practice and Procedure in the District Courts by Rule 5.02 of the Rules of Civil Procedure.

RULE 26

STAY. Rule 26 is superseded, in respect of Practice and Procedure in the District Courts by Rule 58.02 of the Rules of Civil Procedure.

RULE 27

TRIALS. (a) The presiding judge shall examine jurors in civil cases; his examination to be followed by such further inquiry by counsel as the judge may deem proper.

(b) In civil cases called for trial by jury the court at the request of any party to the action may direct the clerk to draw 18 names from the jury box in the first instance, and the said 18 shall then be examined as to their qualifications to sit as jurors in the action; and if any of them be excused another shall be called in his place until there shall be 18 jurors in the box qualified to sit in the action; and the parties shall have the right to exercise their peremptory challenges as to those 18. When the peremptory challenges have been exercised, of those remaining the 12 first called into the jury box shall constitute the jury. In appropriate cases this rule may be modified in accordance with sections 546.10 and 593.15.

(c) Counsel on each side, in opening his case to the jury, shall confine himself to stating the facts which he proposes to prove.

(d) On the trial of actions but one counsel on each side shall examine or cross-examine a witness, and one counsel only on each side shall sum up the case to the jury, unless the judge shall otherwise order.

(e) In criminal trials involving sex offenses or in which the evidence is likely to be of a scandalous nature the court may, with the consent of the defendant, exclude the general public from the court room.

(f) Exceptions to remarks by counsel either in the opening statement to the jury or in the closing argument shall be taken while such statement or argument is in progress unless the same is being taken down in full by the court reporter, in which case exceptions taken at the close of the statement or argument shall be deemed seasonable. The services of the court reporter shall be at the expense of the party desiring it, which shall not be taxable as costs. (Adopted at annual meeting of district court judges held in Minneapolis on July 5-6, 1932.)

RULE 28

TRUSTEES, ANNUAL ACCOUNT. Every trustee subject to the jurisdiction of the district court shall file an annual account, duly verified, of his trusteeship. Such account shall contain an itemized statement of all trust property in the hands or under the control of the trustee since the beginning of the trusteeship or since the time of last settlement; also a statement of all expenditures and investments and a statement in detail of what remains in the hands or under the control of the trustee, with the estimated value of each item thereof. There shall also be filed proof of mailing of such account or of the service thereof upon all beneficiaries or their natural or legal guardians.

The clerk shall keep a list of trusteeships and notify each trustee and the court when such annual accounts are overdue for more than 90 days.

Hearings upon annual accounts may be ordered upon the request of any interested party.

Upon the filing of a final account the court shall fix a time and place for the hearing and auditing thereof, and notice of such hearing shall be given to all interested parties in conformity with Sec. 8100-13, Mason's 1940 Supplement. Like notice shall be given of hearings on annual or interim accounts.

RULE 29

VENUE, CHANGE. A change of venue shall not be granted under the provisions of section 542.11 unless the party applying therefor uses due diligence to procure the same within a reasonable time after issue has been joined in the action and the ground for the change has come to the knowledge of the applicant. Nor shall a change be granted where the other party will lose the benefit of a term, unless the party asking for such change shall move therefor at the earliest reasonable opportunity after issue has been joined and he has information of the ground of such change.

RULE 30

DIVORCE ACTIONS, SERVICE. In every action for divorce brought against a foreign national, in which summons and complaint are not served by handing the same to the defendant within the continental United States, the attorney for plaintiff shall be requested forthwith, upon the commencement of such action, to notify the nearest consul or vice-consul of the country of which defendant is a national of the title and venue of such action, the manner in which jurisdiction was acquired and the date thereof and shall upon request furnish a copy of such summons and complaint or permit a copy thereof to be made.

RULE 31

CIVIL JURY CASES IN WHICH INSURANCE COMPANY INTERESTED IN DEFENSE OR OUTCOME OF ACTION—EXAMINATION OF JURORS. In all civil jury cases, in which an insurance company or companies are not parties, but are interested in the defense or outcome of the action, counsel for such company or companies may, and upon request of the presiding Judge shall, disclose the name of such company or companies to opposing counsel, out of the hearing of the jury, as well as the name of the local agent of such companies. When so disclosed, no inquiry shall be permitted by counsel as to such names in the hearing of the jury, nor shall disclosure be made to the jury that such insurance company is interested in the action.

In the examination of the jurors by counsel as to their qualifications, the jurors may be asked collectively whetner any of them have any interest as policyholders, stockholders, officers, agents or otherwise in the insurance company or companies interested, but such question shall not be repeated to each individual juror. If none of the jurors indicate any such interest in the company or companies involved, then no further inquiry shall be permitted with reference thereto.

If any of the jurors manifest an interest in any of the companies involved, then counsel may further inquire of such juror or jurors as to his or their interest in such company, including any relationship or connection with the local agent of such interested company, to determine whether such interests or relationship disqualifies such juror.

The presiding Judge, in his discretion, may examine the jurors on this feature of the case and not permit counsel to do so.

RULES FOR UNIFORM DECORUM IN THE DISTRICT COURT OF MINNESOTA

COURTROOM

1. The flag of the United States shall at all times while court is in session be displayed on or in close proximity to the bench.

2. A courtroom is a temple of justice—unseemly conduct therein at any time is in poor taste. Tobacco in any form shall not be used; hats and overcoats should be removed at all times before entering the courtroom; dignity and solemnity of both judges and attorneys should be maintained in the courtroom at all times.

3. There shall be no unnecessary conversation, loud whispering, newspaper or magazine reading or other disconcerting or distracting activity by anyone in the courtroom during the progress of the trial.

OPENING AND SESSIONS OF COURT

4. At the opening of a term of court, the formality shall be as follows: Immediately before the scheduled time for opening, the sheriff or bailiff shall proceed from the judge's chambers, and by a rap of the gavel or other signal, direct all court officers and spectators to their seats. As the judge enters the courtroom, the bailiff shall require all present to arise and stand, and the bailiff shall say clearly and distinctly:

Hear Ye—Hear Ye—Hear Ye! The District Court of the —— Judicial District, County of ————, State of Minnesota is about to open for ———— term of court. All persons having business before this Court please come forward, let your wants be known and you shall be heard. This Court is now open. Judge ———— presiding.

All may then be seated and the business of the court will proceed.

(The procedure above outlined may be modified by the judge entering and standing in lieu of the judge being seated, and by the use of the usual "Hear Ye," prevailing in the different districts.)

5. In reconvening court in the morning and after the noon recess, the bailiff shall give warning by gavel or otherwise, and as the judge enters, cause all to stand until he is seated.

(The above rule (to) or (to not) apply to mid-morning and mid-afternoon recesses of the court at election of presiding judge.)

THE JURY

6. When trial is to a jury, the jurors shall take their respective places in the jury box before the judge enters the courtroom. In reconvening after a recess, it is the duty of the bailiff to give warning and assemble the jurors when court is reconvened.

7. When a jury has been selected and is to be sworn, the presiding judge or clerk shall request the jurors to arise, and on the oath being administered, everyone in the courtroom, including attorneys, except the presiding judge shall stand.

THE BAILIFF

8. It shall be the duty of the bailiff to maintain order at all times as litigants, witnesses and the public assemble in the courtroom and during the progress of the trial and during recesses of the court. This includes the duty to admit persons to the courtroom and direct them to seats, and to refuse admittance to the courtroom in such trials where the courtroom is occupied to its full seating capacity.

THE CLERK

9. When the witness is sworn, the clerk shall have the witness give the reporter his or her full name, and after being sworn, courteously invite him or her to be seated on the witness stand.

10. The clerk shall be alert, stand erect and administer the oath to jurors and witnesses in a slow, clear, and dignified manner. Witnesses when sworn should stand near the bench or witness stand, and the swearing of witnesses should be an impressive ceremony and not a mere formality.

THE LAWYER

11. The lawyers should advise their clients and witnesses of the formalities of the court, thereby avoiding embarrassment to them and the court as well.

12. The lawyer is an officer of the court and should at all times uphold the honor and maintain the dignity of the profession, and should maintain at all times a respectful attitude toward the court.

13. Except when making objections, lawyers should arise and remain standing while addressing the court or the jury. In addressing the court, the lawyer should refer to the judge as "Your Honor" or "The Court."

14. The lawyers should address the court from a position at the counsel table. If a lawyer finds it necessary to discuss some question out of the hearing of the jury at the bench, he may so indicate to the court and approach the bench for the purpose indicated. In such an instance, the lawyers should never lean upon the bench nor appear to engage the court in a confidential manner.

15. Lawyers shall be seated or stand at the counsel table while examining witnesses, except when identifying or examining exhibits, or because of physical defects of the witness, or other emergency, a modification of the procedure is required.

16. Lawyers during trial shall not exhibit undue familiarity with witnesses, jurors or opposing counsel, and the use of first names shall be avoided. In arguments to the jury, no juror should be singled out and addressed individually by name.

Canon Number 23 of Canons of Professional Ethics, American Bar Association, provides: "All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause."

17. All lawyers, jurors, litigants and court officials shall wear coats while in attendance upon court, provided judicial discretion may be exercised otherwise in certain situations.

18. Lawyers shall state objections without argument. If there is to be an argument or offer of proof, the same shall be made out of the hearing of the jury.

19. When addressing the jury, the lawyers shall first address the court, who shall recognize the lawyer by "Mr. Smith" or "Counsel."

20. In examination of a witness, the lawyer should not indulge in personalities, but should treat the witness with courtesy and respect.

Canon No. 18 of Canons of Professional Ethics, American Bar Association, provides: "A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf."

21. The lawyers as far as possible shall refrain from interrupting each other, speaking at the same time or arguing across the counsel table. Unless observed, this will make a poor record for review later. Lawyers should instruct their witnesses to testify slowly and clearly so that the court and jury will hear their testimony, and should caution witnesses not to chew gum when testifying.

22. A lawyer or a party shall not thank the jury or the court for a favorable verdict that has been returned. It is the duty of the court to see that no demonstration occurs in the courtroom in connection with the rendering of a verdict.

THE JUDGE

23. The judge shall at all times be dignified, courteous, respectful and considerate of the lawyers, the jury and witnesses.

Canons number 9 and 10 of Canons of Judicial Ethics, American Bar Association, provide:

"9. A judge should be considerate of jurors, witnesses and others in attendance upon the court."

"10. A judge should be courteous to counsel, especially to those who are young and inexperienced, and also to all others appearing or concerned in the administration of justice in the court."

"He should also require, and, so far as his power extends, enforce on the part of clerks, court officers and counsel civility and courtesy to the court and to jurors, witnesses, litigants and others having business in the court."

24. Pursuant to resolution of the Minnesota District Judges' association, the judge shall wear a robe at all trials and court appearances, except that under certain circumstances, in the exercise of his discretion, the judge may dispense with the wearing of a robe in a court appearance.

25. The judge shall be punctual in convening court, and prompt in the performance of his judicial duties in the courtroom.

Canon number 7 of Canons of Judicial Ethics, American Bar Association, provides: "A judge should be prompt in the performance of his judicial duties, recognizing that the time of litigants, jurors and attorneys is of value and that habitual lack of punctuality on his part justifies dissatisfaction with the administration of the business of the court."

26. During the presentation of the case, the judge shall maintain absolute impartiality, and shall neither by word or sign indicate that he favors any party to the litigation.

27. The judge should refrain so far as possible from intervening in the examination of witnesses or argument of counsel; however, the judge shall intervene on his own motion to prevent a miscarriage of justice.

Canon number 15 of Canons of Judicial Ethics, American Bar Association, provides:

"A judge may properly intervene in a trial of a case to promote expedition, and prevent unnecessary waste of time, or to clear up some

obscurity, but he should bear in mind that his undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on his part toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the proper presentation of the cause, or the ascertainment of the truth in respect thereto."

"Conversation between the judge and counsel in court is often necessary, but the judge should be studious to avoid controversies which are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants or witnesses, he should avoid a controversial manner or tone."

"He should avoid interruptions of counsel in their arguments except to clarify his mind as to their positions, and he should not be tempted to the unnecessary display of learning or a premature judgment."

28. The judge shall have the duty to see that each witness is sworn separately and that the oath is administered to witnesses in a manner calculated to impress them with the importance and solemnity of the oath taken.

29. The judge shall be impersonal in addressing the lawyers and other officers of the court by addressing the lawyers as "Counsel" or "Mr. Smith;" the bailiff as "Mr. Bailiff;" the clerk as "Mr. Clerk" or "Madame Clerk;" or the reporter as "Mr. Reporter" or "Madame Reporter."

30. The judge shall be responsible for order and decorum in the court and shall see to it at all times that parties and witnesses in the case are treated with proper courtesy and respect. Lecturing, browbeating, badgering or shouting at a witness shall not be allowed.

31. The judge shall be in complete charge of the trial at all times and shall see to it that everything is done to obtain a clear and accurate record of the trial. It is his duty to see that the witnesses testify clearly so that the reporter may obtain a correct record of all proceedings in court.

32. If in a trial the lawyers get into a personal colloquy or wrangle across the counsel table, it is the duty of the trial judge to interrupt; a simple suggestion that counsel request a ruling from the court, or a reminder that the reporter can report only one at a time, or the mere suggestion that each give the other the opportunity to speak, usually has the desired effect.

33. The judge shall exercise extreme care so as not to say anything before the jury or parties to an action that is critical of a lawyer or that may be embarrassing to him before his client or the jury. It is always well for the judge to remember that the lawyer is also an officer of the court. If the judge has a suggestion to make to the lawyer of a critical nature, he may call a recess or call the lawyer to the bench and speak to him in an undertone not audible to the jury.

34. The judge shall at all times exercise the highest degree of patience; it is better to lose time than to lose patience. The silent judge makes the better judge; a judge seldom regrets what he failed to say during a trial but many times he regrets and wishes he could recall some things he did say.

Canon number 5 of Canons of Judicial Ethics, American Bar Association, provides: "A judge should be temperate, attentive, patient, impartial, and, since he is to administer the law and apply it to the facts, he should be studious of the principles of the law and diligent in endeavoring to ascertain the facts."

35. The judge should exercise caution not to comment favorably or adversely upon the verdict of a jury during a court term; it may indirectly influence the action of the jury in the remaining cases to be tried.

36. The juror is always interested in what has happened to a case he is hearing. If a case is disposed of by motion, settlement or otherwise, it is a good practice to explain to the jury what has transpired. The explanation with proper comments from the court can do much to alleviate the criticism that is frequently made of our jury trial procedure.

PART II
RULES FOR REGISTRATION OF LAND TITLES

PROCEEDINGS FOR INITIAL REGISTRATION

RULE 1

APPLICATION, INDORSEMENTS. Applications, approved as to form by the examiner, shall be presented in duplicate. There shall be indorsed thereon the name and address of the applicant's attorney, or of the applicant if he appears in person.

RULE 2

ABSTRACTS OF TITLE. The abstract when filed shall show the record of the patent or other conveyance from the United States, the record of the certified copy of the application, and all judgments, federal and state, taxes, assessments, and tax sales.

RULE 3

TITLE BASED UPON AN ADJUDICATION NOT FINAL, OR UPON ESTOPPEL. When the title of the applicant or the release or discharge of any encumbrance thereon, is based upon an adjudication not final, or upon estoppel, and there remains a right of appeal or contest, all parties having such right of appeal or contest shall be made parties defendant.

RULE 4

TITLE DERIVED THROUGH DECREE OR ADJUDICATED TAX SALE. Title based upon a judgment or decree of court in an action, or upon an adjudicated tax or local assessment sale, shall be registered only after the expiration of six months from the date of the judgment or decree; but this shall not apply to cases where in the action in which the judgment or decree was entered, or in the proceeding to register the title, the summons was served personally upon the parties who could alienate the fee title.

RULE 5

EXAMINER'S REPORT; PETITION AND ORDER FOR SUMMONS. The examiner's report shall specify the names of all parties he deems necessary parties defendant. Petitions for summons shall set forth such names and the names of such other parties as the applicant deems to be necessary, and the names, if known to the applicant, or ascertainable by him upon reasonable inquiry, of the successors in interest of such persons known to the applicant to be deceased. Where the place of residence of a defendant is unknown to the applicant, the petition shall so recite and shall set out the facts relating to the search for such defendant by the applicant.

RULE 6

PAPERS TO BE FILED, EFFECT OF NOTICE AND APPEARANCE. If a defendant, in addition to appearing or filing his answer, as by statute required, shall serve a copy thereof upon the applicant or his attorney, he shall be entitled to notice of all subsequent proceedings.

RULE 7

AFFIDAVIT OF NO ANSWER AND CLERK'S CERTIFICATE OF DEFAULT. The default of defendants who fail to appear and answer shall be shown by the certificate of the clerk entitled and filed in the action, and by the affidavit of the applicant's attorney, if he appears by attorney; otherwise by the applicant's affidavit.

RULE 8

HEARINGS IN DEFAULT CASES, FILING NOTE OF ISSUE AND PAPERS. Initial applications, where no issue has been joined, shall be heard by the court at any special term, unless by local rules adopted for any particular county or district, or by special order, other days have been designated for such hearings; or they may be heard by an examiner, to whom the matter has been specially referred, as referee. In counties where the examiner checks the proceedings in advance of the hearings, the note of issue and all papers necessary to complete the files shall be filed and all documentary evidence proposed to be used by the applicant or petitioner shall be delivered to the examiner at least three days before the hearing, together with the proposed order for judgment and decree.

RULE 9

ISSUES RAISED BY ANSWER, REPLY. All facts alleged in an answer, which are not in accordance with the allegations of the applicant, shall be considered at issue without reply by the applicant. If the answer sets up rights admitted in the application, or in a reply of the applicant, the hearing may proceed as in case of a default, and the registration shall be subject to such rights.

RULE 10

TRIAL OF CONTESTED ISSUES. In all cases where the answer raises an issue which is undisposed of by stipulation or otherwise, the matter shall be noted for trial at the general term. The procedure and the method of determination shall be the same as in the trial of similar issues in civil actions or proceedings.

RULE 11

INTERLOCUTORY DECREE ESTABLISHING BOUNDARIES. When the applicant seeks to fix and establish the boundary lines of the land, he shall have the premises surveyed by a competent surveyor and shall cause to be filed in the proceeding a plat of the survey showing the correct boundaries of the premises. He shall furnish the examiner with such abstracts of title of adjoining lands as the latter shall require in determining the necessary parties defendant in the fixing and establishing of such boundaries. The hearing upon such application may be separate from or in connection with the hearing upon the application to register, but before any final adjudication of registration, the court by order shall fix and establish such boundaries and direct the establishment of "Judicial Landmarks" in the manner provided by section 559.25. In the decree of registration thereafter entered, and in certificates of title thereafter issued, the description of the land shall contain appropriate reference to such "Judicial Landmarks."

RULE 12

PROTECTION OF INTERESTS ACQUIRED PENDENTE LITE; PROVISION FOR IMMEDIATE REGISTRATION AFTER HEARING. At the time of the hearing of the application for judgment, the applicant shall satisfy the court by continuation of abstract and other proper proof, of changes, if any, in the title, or in the encumbrances thereon arising since the filing of the application. When the decree is signed, the applicant shall forthwith file the same with the clerk, together with a receipt of the registrar showing payment of all sums due him for the registration of the decree, and the issuance of a certificate of title in pursuance to said decree, and thereupon the clerk shall certify a copy of the decree and file the same for registration with the registrar.

PROCEEDINGS SUBSEQUENT TO INITIAL REGISTRATION

RULE 13

TITLE OF PROCEEDINGS. Proceedings subsequent to the initial registration under sections 508.44, 508.45, 508.58, 508.59, 508.61, 508.67, 508.68, 508.69, 508.70, 508.71, and 508.73 shall be commenced by filing with the clerk a verified petition by a party in interest, which shall be entitled:

"In the Matter of the Petition of.....
in Relation to (description of property) registered in Certificate of Title No..... for (relief sought)."

The petition shall allege the facts justifying the relief sought, the names of all interested parties as shown by the certificate of title, and their interests therein.

RULE 14

TRIAL AND HEARING. In proceedings where no notice is required and in proceedings where the required process of notice has been served and the time for appearance has expired without any issue having been raised, the proceedings shall be noted for trial and heard the same as in proceedings upon default for initial registration. Issues raised in these proceedings shall be noted for trial and disposed of the same as similar issues in other civil proceedings.

RULE 15

NEW CERTIFICATES, AMENDMENTS, ETC. In proceedings under sections 508.44, 508.45, 508.58, 508.59, 508.61, 508.67, 508.68, 508.69, 508.70, 508.71, and 508.73, the petition for relief, duly verified, before being presented, shall be approved as to form by the examiner of titles. The examiner shall make such examination as to the truth of the allegations contained in the petition as to him may seem necessary, or as directed by the court. In all cases where notice is necessary and the manner thereof is not prescribed by statute, it shall be by an order to show cause, which shall designate the respondents, the manner of service, and the time within which service shall be made. Any final order or decree directed in such proceeding shall be approved as to form by the examiner before presentation to the court.

RULE 16

NEW DUPLICATE CERTIFICATE. Every petition for a new duplicate shall be filed with the clerk and show by a receipt of the registrar of titles indorsed thereon that a duplicate original has been delivered to him. Thereupon the court shall issue a citation addressed "To Whom It May Concern," fixing a time and place of hearing and prescribing the mode of service. No order shall be made for a new duplicate except upon hearing and due proof that the duplicate theretofore issued has been lost or destroyed or cannot be produced. If it shall appear at the hearing that there are any known parties in interest to whom notice should be given, the hearing shall be continued and an order entered accordingly.

SPECIAL RULES APPLICABLE TO PARTICULAR DISTRICTS

SECOND JUDICIAL DISTRICT

PRETRIAL PROCEDURE. It is hereby ordered that compulsory pretrial hearings be conducted in the following manner:

I. General Procedure

1. Attendance at pretrial hearings by the attorney who is to try the case is compulsory unless he is actually engaged in trial, in which event a member of his firm may be substituted.

Continuances will be granted sparingly.

Unexcused absences will result in the entry of orders by default determining matters recited in Rule 16 of the Rules of Civil Procedure, as well as resolving other questions properly raised at the pretrial hearing.

2. Attorneys at pretrial hearings will be thoroughly informed as to the law and facts of the case. Each side will be prepared to disclose the applicable statutes, citations, and legal and factual claims relied on as a basis for imposing liability or establishing a defense.

3. All medical examinations, depositions, and interrogatories shall be completed and transcribed before the date set for the pretrial hearing.

4. Immediately before pretrial, the attorneys will confer with their clients to determine the extent of their authority to stipulate to facts, to limit or define issues, and to effect a settlement.

5. Counsel will advise the court of any visual aids to be utilized and will bring to pretrial all exhibits then in existence which they intend to introduce at the trial, including models, charts, maps, plats, photographs, correspondence, contracts, documents, bills, x-rays or interpretations thereof, and hospital records or authority permitting the other party to examine the hospital and x-ray records unless privilege is asserted. Such exhibits shall be marked at pretrial, and so far as possible the court will pass on their foundation and admissibility. All maps, charts, and drawings must be of adequate size and accurate, drawn to scale, with North designated at the top.

6. Motions for consolidation, for separate trials, of for amended pleadings, particularly prayers for relief, will be entertained at pretrial, provided they do not involve a delay in reaching trial.

7. Counsel and court may consider whether trial shall be with or without a jury, the number of jurors, whether special or general verdicts or interrogatories will be requested, the possibility of removal to Municipal Court, the order of trial where there is a multiplicity of parties, whether a view of the scene will be requested, and any other special problems which may be anticipated.

8. Where necessary because of nonresident witnesses or a multiplicity of parties, the court may fix a day certain for trial.

9. Pursuant to Paragraph 4 hereof, plaintiff will specify at pretrial the amount of his demand, and defendant will specify the amount, if any, of his offer.

II. Specific Data

Each attorney will have available at pretrial the following information:

1. In motor vehicle cases, the make, title, movement and direction of all cars, the status of traffic controls, the width of streets, the time of the accident, the weather and highway conditions.

2. The names, addresses and occupations of clients and their witnesses, and a summary of the testimony of each. Counsel will state whether or not there is to be any comment to the jury with respect to absent witnesses.

3. The names and addresses of any lawyers in the case not appearing of record.

4. The names of any parties under disability not properly represented.
5. Names and addresses of insurance carriers, and their interest in the case. Counsel will disclose any questions of coverage.
6. The title, venue, and file number of any other pending actions arising out of the same accident or event.
7. All specific acts of negligence and specific defenses, including claims of intoxication.
8. Death cases—
Names and addresses of heirs.
Earnings of decedent as disclosed by income tax returns.
Cause of death.
Funeral expenses.
Age and expectancy of decedent and of beneficiaries.
Recent employers of decedent.
Contributions by decedent to heirs.
9. Personal injury cases—
Names and addresses of doctors who have examined plaintiff for either party.
Doctors who will testify.
Privilege claimed, if any.
Diagnosis and prognosis by each doctor as to whom privilege is waived.
Permanent injury and percent claimed.
Expenses incurred: doctor, hospital, drugs, nursing, housekeeping, and car damages.
Names and addresses of proper person to assert these damages (the injured party, spouse, or parent).
Time actually lost, salary or wages at time of injury, and impairment of earning capacity claimed.
Previous accidents and previous claims for injury by plaintiff.
10. All pleadings, depositions, interrogatories, substitutions, preliminary motions and orders must be filed before pretrial.

III. Written Information

It is hereby ordered that before any pretrial conference is commenced, whether requested or compulsory, each lawyer will furnish the Court and the other lawyers, **in writing,** the following information regarding his client's claim or defense to the extent applicable to that party:
1. What exhibits will be offered by client? They will be appropriately marked by counsel before pretrial and displayed to opposing counsel at the conference.
2. Will client introduce in evidence his hospital records at the trial? If so, counsel will bring to pretrial written authority to examine these records.
3. What was make of vehicle in which client was riding, and in whose name was vehicle client was driving registered.
4. Hour of accident.
5. Condition of weather and streets.
6. Names and addresses of passengers in car with client.
7. Names and addresses of witnesses, except doctors, whom client will call at trial.
8. Is client a minor?
9. Name of client's liability or collision carrier.
10. Specify claims of common law negligence client makes against opposing parties, as well as statutory violations by statute number.
11. Is there any claim by client that a driver had been drinking intoxicants?
12. Did any adverse party make an oral admission at the scene?
13. Has a written statement been secured from any adverse party?
14. **Death Cases** (To be furnished by trustee)
(a) Names and ages of next of kin.
(b) Decedent's earnings.
(c) Funeral expenses.
(d) Age of decedent and occupation at time of death.
15. In death case, does defendant stipulate to cause of death?
16. **Personal Injury**
(a) Doctors who examined plaintiff for client.
(b) Doctors who will testify for client.
(c) Will client waive privilege as to his doctors who do not testify?
(d) Does client claim permanent injury? If so, nature and degree.
(e) Length of client's hospital confinement.
(f) Amount each hospital charged client.
(g) Will defendant stipulate that superintendents would testify their bills are reasonable?
(h) Time lost from work by client.
(i) Loss of earnings or earning capacity sustained by client.
(j) Amount of client's doctor bills.
(k) All other special damages client claims.
(l) Has client ever sustained a prior injury or made a prior claim for injury?
17. Are answers, interrogatories and all other papers filed?
18. Specify all other questions to be raised at pretrial.
19. Name of lawyer who will try case.

FOURTH JUDICIAL DISTRICT

RULE 1

FILING OF PLEADINGS. In all cases the party filing a note of issue shall at the same time file such of his pleadings and other papers as have been served by him in the cause and have not been theretofore filed. All parties to the cause shall file their pleadings and other papers served by them before the date of trial, and not later than five days after receipt of notice of such date. For failure to observe this rule, the clerk shall assess $1.00 as special costs against each delinquent party.

RULE 2

SETTING OF CASES. (a) The clerk of this court shall, for each general term thereof, prepare a calendar of civil causes, court and jury, and shall enter upon such calendar: (1) All causes which shall have been continued to such term, in the order in which the same shall have appeared upon the calendar of the term from which the continuance was had; (2) all other civil causes, originally commenced in the district court, in which notes of issue shall have been filed with said clerk, prior to such term, or during the continuance thereof, as provided by Minnesota Statutes, Section 546.05, the same to be so entered in the order of the dates of filing of said notes of issue; and (3) all other actions and proceedings, originally commenced in the district court, or appealed or transferred thereto and required by law to be placed upon said calendar, the same to be entered thereon at the time and in the manner prescribed by law, upon compliance being had with the provisions of the respective statutes relating thereto, as modified by said Minnesota Statutes, Section 546.05.

(b) The clerk shall also, for each general term thereof, prepare a calendar, which shall be known as the default divorce calendar (no children), and shall enter therein: (1) Default divorce cases, wherein children are not involved, which shall have been continued to such term, in the order in which the same shall have appeared upon the calendar of the term from which the continuance was had; (2) all other default divorce cases, wherein children are not involved, in which notes of issue shall have been filed, prior to such term, or during the continuance thereof: Provided, however, that no default divorce case wherein children are not involved shall be entered for trial at an earlier date than 30 days after the time to answer has expired and affidavit of no answer and note of issue has been filed.

The clerk shall also, for each general term thereof, prepare a calendar which shall be known as the default divorce calendar (children involved), and shall enter therein: (1) default divorce cases, wherein children are involved, which shall have been continued to such term, in the order in which the same shall have appeared upon the calendar of the term from which a continuance was had; (2) all other default divorce cases, wherein children are involved, in which notes of issue shall have been filed, prior to such term, or during the continuance thereof: Provided, however, that no default divorce case, wherein children are involved, shall be entered for trial at an earlier date than 90 days after the time to answer has expired and affidavit of no answer and note of issue has been filed; provided further, that no such default divorce shall be tried until after a custody evaluation has been made by the Department of Court Services of this court, unless the presiding judge of the Family Court division shall have waived this requirement. (As amended January 22, 1959.)

(c) No contested case shall be advanced upon the calendar of this Court for trial out of its regular order except under the following conditions: A motion shall be regularly made for such advancement of any contested case for trial, placed in its regular order upon the Special Term Calendar and referred by the Judge presiding at the Special Term Calendar to the Calendar Judge for hearing. The Calendar

Judge shall consider such motions at such times and in such manner as he may designate. No case may be advanced except on the order of the Calendar Judge.

RULE 3

RESETTING OF CASES. (a) Application for the resetting of any cause shall be made to the court not less than eight days prior to the date of trial except for reasons arising within the period of eight days. This application shall be made upon affidavit and written notice, served upon opposing counsel at least two days prior to the hearing. When the reason for the application arises within the period of eight days an order to show cause shall be applied for with reasonable promptness. Applications for resettings will be granted only upon a legal showing which would, under the practice heretofore existing, have entitled the moving party to a continuance. No such application shall be made later than the date when said case is set for trial. Not more than three re-settings or continuances in any case shall be granted.

(b) Except as provided in subdivision (c) hereof, a case may be re-set or continued only upon stipulation filed by 12 o'clock noon of the day prior to the date when said case is set for trial. There shall not be more than three re-settings upon stipulation except as provided in subdivision (c) hereof.

(c) After a case has been assigned to a Judge for trial, an application for re-setting or continuance may be based only on an emergency arising since the case was called on the calendar. Such motion or application shall be made immediately upon the discovery of such emergency and shall be heard and determined forthwith by the Judge in Chambers.

RULE 4

SPECIAL TERM AND DIVORCE MOTIONS (CHILDREN INVOLVED). (a) Special term shall be held every day except Sundays and holidays. The preliminary call of the calendar will be followed at once by the peremptory call, at which hearing will be had and causes finally disposed of as reached. No hearing will be set down for the afternoon, or continued beyond the morning session unless for urgent reasons. Only causes properly on the calendar when the court opens will be heard, unless they have been omitted by mistake or inadvertence of the clerk. All pleadings, orders, notices, affidavits and other papers proper to be filed must be, to entitle them to be read, filed with the clerk before the day on which the special term is held, unless for some reason other than neglect, the paper could not have been sooner filed, or unless the occasion for the use of the paper arises at the hearing from some cause not previously apparent. The strict enforcement of the provisions of this rule may be relaxed in favor of attorneys from other counties.

(b) A written motion and notice of the hearing thereof shall be served not later than five (5) days before the time specified for the hearing, unless a different period is fixed by order of the court. (Rule 6.04 M.R.C.P.) All moving papers, including pleadings, orders, notices, affidavits and other papers proper to be filed must be, to entitle them to be read, filed with the clerk not less than three (3) days before the day on which the hearing is to be held, unless for some reason other than neglect, the paper could not have been sooner filed, or unless the occasion for the use of the paper arises at the hearing from some cause not previously apparent. All responsive affidavits to the moving papers and all other papers to be used by the party responding to the moving papers must be, to entitle them to be read, filed with the clerk at least one full day before the day on which the motion is to be heard, unless for some reason other than neglect, the paper could not have been sooner filed, or unless the occasion for the use of the paper arises at the hearing for some cause not previously apparent. Only causes properly on the calendar when the court opens will be heard, unless they have been omitted by mistake or inadvertence of the clerk.

An application for temporary relief shall be made on the form prescribed in District Court Rule No. 9, approved by the Minnesota District Judges Association and Minnesota State Bar (December, 1953). The party responding to such application shall use the form prescribed in District Court Rule No. 9 as a responsive affidavit and show the claims on the part of the party responding to such moving papers. The heading on said form shall be prefixed by the words "Responsive affidavit to" immediately above the words "Application for temporary alimony, etc." In addition to answering the questions in said form, a party, if employed, shall state the name of his or her employer, the address and telephone number of the latter, as well as the gross earnings, the specific deductions, the amounts thereof, and the net earnings.

The parties to an action shall be present in court at the hearing on said motions.

The home addresses of the parties shall be stated under their respective names in the caption of the action.

The moving party at the time of filing the note of issue shall furnish the clerk with a duplicate copy thereof, stating the nature of the motion and, in the case of an Order to Show Cause, the time set for the hearing, and it shall be the duty of the clerk to deliver said duplicate to the Department of Court Services as notice of the pending motion.

The strict enforcement of the provisions of this rule may be relaxed in favor of attorneys from other counties and in all other cases where excused by the presiding judge of the Family Court division of this court.

RULE 5

ASSIGNMENT OF CASES. (a) The clerk shall assign a duly appointed deputy clerk from his office who shall be designated as the assignment clerk and he shall act under the general instructions of the judge presiding in chambers in connection with the assignment of civil cases to the several judges for trial.

(b) It shall be the duty of the assignment clerk to set for trial each day that the court is in session a sufficient number of cases to keep the courts occupied, and he shall mail to all attorneys postal cards notifying them as to the day their cases are set for trial, 15 days in advance. Attorneys so notified shall at once inform the clerk whether such case or cases are for trial, and unless so informed within five days after the mailing of such notice it shall be deemed that the case has been settled or abandoned, and the clerk shall then omit it from the calendar and may substitute another case in lieu thereof.

(c) The clerk shall assign to each trial court room a deputy clerk who shall be in constant attendance during the sessions of the court, and whose first duty shall be the clerical details or/and pertaining to the trial work.

(d) The clerk shall assign deputy clerks to assist the assignment clerk in such number as from time to time the work may require.

(e) In all cases where there is more than one attorney of record for a party, the name of the attorney who will try the case for any such party shall be given to the assignment clerk in writing within five days after receipt of the 15-day notice set forth in subdivision (b).

In all cases where an attorney other than the attorney of record will try the case the name of such attorney shall be given to the assignment clerk and to all opposing counsel in writing not later than 5 days after receipt of the 15-day notice set forth in subdivision (b). Such cases will be sent out in their regular order. No trial shall be delayed by failure to observe the foregoing requirements.

(f) Except as provided in subdivision (g) hereof, a case may be reset or continued only upon stipulation filed by 12 o'clock of the day prior to the date when the case is set for trial or upon application to the judge in chambers, as set forth in rule 3. No such application shall be made later than the date when the case is set for trial and shall be based either upon notice of motion or order to show cause, stating the grounds for such application. If the judge is satisfied that there is just cause for granting the application for the resetting or continuance, such application shall be decided forthwith by the court. Not more than three resettings or continuances of any case shall be granted, except as provided in subdivision (g) herein or upon stipulation of the parties.

(g) After a case has been assigned to a judge for trial, an application for resetting or continuance may be based only on an emergency arising since the case was called on the calendar. Such motion or application shall be made immediately upon the discovery of such emergency and shall be heard and determined forthwith by the judge in chambers.

(h) All cases reported ready for trial shall be placed on the active list and assigned by the judge in chambers to a court room for trial in the order in which they appear on such list. The assignment clerk shall notify the attorneys by telephone to report at once to the court to which such case has been assigned.

(i) Attorneys shall be required to keep the assignment clerk informed of their telephone number and when they have cases on the active list they shall be required to hold themselves within telephone call of their offices, and report to the trial court within 15 minutes after such notification in person or by representative.

(j) The time at which the assignment clerk has notified the attorneys shall be indicated on the records of the assignment clerk.

(k) Each case in its order shall be assigned by the judge in chambers to the first judge available and thereupon it shall be tried, dismissed, or stricken, unless it is reset or continued because of an emergency arising since the case was called on the calendar.

No case shall be kept on the active list more than 30 days after it has been called for trial on the calendar. It must be tried, dismissed, or stricken within the 30 days.

Without any exception, save as herein specified, cases shall be assigned to the judge trying civil cases who first reports to the assignment clerk that he is ready for a new case. To fill time not otherwise occupied default divorce cases may be assigned out of their regular order to any judge on his request, such cases always retaining their calendar order relative to each other. The judge having the juvenile court assignment may select cases of such probable length as not to interfere with his juvenile court work.

(l) All pleading must be on file in the office of the clerk of the district court as provided in rule 1 before any case is assigned for trial, under penalty of dismissal, continuance, striking from the calendar, or such other terms as the court may see fit to impose.

(m) Cases will not be assigned when any attorney therein is actually engaged in another court.

(n) When an attorney who is going to try a case or cases on the active list is actually engaged in another court he shall file a statement with the assignment clerk setting forth the court wherein he is engaged and his cases shall be held until he is released from the case in which he is then engaged. Immediately upon becoming released from such case the attorney shall notify the assignment clerk, who shall forthwith notify the judge in chambers and such cases as are held shall then be assigned to a judge for trial in regular order.

(o) When a case is reached for trial and a jury is not available the assignment clerk may assign a court case. When juries are available jury cases shall be given such preference as shall be deemed expedient.

(p) When a case is assigned for trial it must be ready for immediate trial. All motions, demurrers, or other proceedings as to pleadings shall be heard prior to the time of trial by the court in chambers.

(q) When a trial is for good reason interrupted and the case is to be returned to the assignment clerk, he shall make such record of its return and forthwith place such case again upon the calendar for trial, for such date as the court may direct.

(r) When the parties to any suit which has reached the active list have settled or dismissed the same, the attorneys shall at once notify the assignment clerk and cause an entry of such assignment or dismissal to be made and entered upon the records. Failure to comply with this rule may be treated as a contempt of court.

(s) If any Judge shall feel for personal reasons or otherwise that he cannot try a particular case assigned to him he shall so report to the Judge in Chambers.

(t) The assignment clerk shall never under any consideration assign cases to Judges other than in their regular order, and in the regular order in which the Judges notify him that they are ready for cases, except as hereinbefore provided.

(u) When an attorney withdraws from the case or is discharged by his client he shall notify the assignment clerk, and all opposing counsel in writing within five days thereafter that he no longer appears for such party and shall give the assignment clerk and all opposing counsel the name of the attorney succeeding him and the postal address of said client.

(v) If a party to an action is a non-resident or is out of the city or liable to be out of the city at intervals, upon receipt of the postal card notice the attorney so notified shall at once inform the assignment clerk and all opposing counsel in writing of such fact and upon written notice to the opposing parties apply to the Court in Chambers for a setting for a day certain.

(w) After a case has been set for trial, upon the 15-day notice set forth in subdivision (b) hereof, no further time shall be allowed for the taking of depositions or for submission of interrogatories to any of the parties to said action, except where the necessity for depositions or submission of interrogatories did not arise until after receipt of said notice.

(x) In the event that a litigant is in service and wishes to avail himself of relief under the Sailors and Soldiers Relief Act, the attorney shall notify the assignment clerk, and all opposing counsel, within five days after the receipt of the 15-day notice.

RULE 6

DEFAULTS. (a) Divorce cases, in which the time for answering has expired, and default has been made, and in which the summons and complaint, with proof of service thereof, have been filed with the clerk, shall, upon filing with the clerk a note of issue, containing the title of the cause, a statement of the foregoing requisites, and the address of counsel, be placed upon the calendar and set for trial as provided for in rule 2.

(b) All causes, other than divorce and tax cases, requiring the taking of testimony, in which the time for answering has expired and default has been made, and in which the summons and complaint, with proof of service, have been filed with the clerk, shall, upon filing with the clerk a note of issue containing the title of the cause, a statement of the foregoing requisites, and the address of counsel, be placed upon a special calendar and set for trial at chambers or special term for such date as may be specified by the party filing the note of issue.

RULE 7

CLERK'S FEE. All clerk and trial fees must be paid before the jury is sworn.

RULE 8

EXHIBITS. (a) All exhibits offered in evidence shall be placed in the custody of the clerk of the court who shall be responsible for their care and production and delivery to the party to whom the same may belong for a period of 48 hours following a verdict in cases of trial by jury or rendition of decision by the court without a jury. After the expiration of the 48 hours the care and responsibility for such exhibits shall be upon the parties themselves. Upon surrendering the custody of any such exhibits, the clerk shall take a receipt therefor from the party to whom delivered.

(b) Exhibits in criminal cases shall be kept by the clerk for six months after verdict of the jury, unless surrender of the same shall be directed by written order of the judge before whom the case was tried.

RULE 9

FINDINGS IN DIVORCE CASES. (a) In divorce cases upon signing the findings, the judge so signing shall deliver the same to the clerk for filing.

(b) No judgment will be entered for unpaid alimony ex parte. Judgment can be entered only upon Notice of Motion duly made and placed upon the Special Term Calendar. If personal service cannot be had such service shall be made as the Court shall direct.

(c) No change of venue to other jurisdictions shall be granted in divorce cases except upon statutory grounds.

RULE 10

EXPERT WITNESS FEES. In taxation of costs in all civil cases a fee not exceeding $10.00 per day may be allowed for expert witnesses, except under special circumstances such fee may be increased, but not to exceed $50.00 per day.

In criminal cases a fee not exceeding $25.00 per day may be allowed for expert witnesses; provided that under special circumstances such fee may be increased, but not to exceed $50.00 per day.

RULE 11

FEES IN CONDEMNATION PROCEEDINGS. Each commissioner in condemnation proceedings shall be allowed a fee not to exceed the sum of $15.00 per day.

RULE 12

ORDERS IN SUPPLEMENTARY PROCEEDINGS. Orders in supplementary proceedings shall provide that in the examination of the judgment debtor the referee shall not grant more than two continuances.

RULE 13

GARNISHMENT DISCLOSURE. All orders of reference in garnishment matters shall provide for the disclosure being taken at the office of the clerk of the district court, except by agreement of all parties that it be taken elsewhere.

RULE 14

RECEIVERS AND TRUSTEES. (a) All applications for allowance of fees to assignees, receivers, and attorneys, which allowance is asked to be made from the funds of any insolvent estate or estate in the hands of any receiver for settlement, shall be heard by the full bench, or a division thereof consisting of at least three judges, on the last Saturday of each month. Four copies of the account shall be delivered to the clerk together with the application.

(b) In any case where an order for compensation to a receiver, or attorneys, would appear necessary or expedient, in the exercise of sound discretion, for the preservation of the estate, pending the next full bench meeting when the matter may be presented, the judge to whom the application is made, may by written order make such interim allowance.

(c) In receivership matters all interlocutory motions and orders shall be referred to and considered by the judge who appointed the receiver in the first instance.

(d) Every receiver or trustee in submitting his final account shall disclose to the court as a part thereof the status of the property of the estate as to unpaid or delinquent taxes, both personal and real, and the same shall be paid by him to the extent that the funds in his hands permit over and above the costs and expenses of the receivership and debts due to the United States.

(e) Every trustee of an express trust whose appointment has been confirmed pursuant to the provisions of M.S. 501.33, shall render to the Court at least annually a verified account containing a complete inventory of the trust assets and itemized principal and income accounts.

A hearing shall be held on such annual accounts at least once every 5 years upon notice as set forth in Minnesota Statutes, Chapter 501.

Where the sureties on a trustee's bond are unincorporated, the trustee or trustees shall certify under oath which shall be attached to the annual account that each surety is living, is a resident of this state, is not under disability, and is worth the amount in which he or she justified in said trust.

(f) Before the Court shall consider any application for the appointment of a Trustee pursuant to the provisions of M.S.A. 501.33, such applicant shall first file a certified copy of the will or other written instrument and if based upon a will shall file and exhibit to the Court a certified copy of a partial or final decree of distribution from the Court wherein said will was probated.

RULE 15

PROBATION RULE. (a) In all cases where persons are placed on probation after conviction for crime, such persons shall not be permitted to leave the State of Minnesota without express leave of the court, and leave shall in no case be granted within six (6) months after date of conviction.

(b) When a probation officer requests that probation shall be revoked he shall state his reasons in a written statement and present the same to the Judge who placed the party on probation, or his successor in office.

RULE 16

JURY SERVICE. (a) Application for excuse from jury duty shall be made or referred to the judge to whom the juror has been ordered to report.

(b) No person shall serve as a member of the grand jury or petit jury who has served within two years as a member of the grand or petit jury either in the United States District Court or the District Court of Minnesota, or as petit juror in the Municipal Court.

(c) Each judge shall select eight (8) names for the grand jury panel before December 1st of each year.

(d) Any person whose name is drawn for grand jury service shall serve for the period drawn or be excused. In no case shall the service of such person be continued until a later date or nave his name replaced in the jury box.

RULE 17

CRIMINAL PROCEDURE. (a) Every person in custody charged with crime shall be arraigned in district court within 48 hours after the filing of the information or indictment against him.

(b) When juries are in attendance, the trial of every person charged with crime shall be set for not later than eight days after arraignment.

(c) No case on the calendar for trial shall be continued except upon an order of the court, based on an affidavit showing substantial cause.

(d) All cases shall be tried in the order in which they stand on the calendar, except for good cause shown.

(e) When upon a trial the jury disagrees, the case, unless otherwise disposed of, shall be reset for trial not more than 14 days after such disagreement.

(f) When a bail bond has been defaulted it shall not be reinstated without personal appearance of the defendant within ten days, unless it is shown by affidavit that the defendant had a sufficient excuse for his non-appearance, and the court is satisfied that the state has not been deprived of material evidence by reason of the delay.

(g) Except for the formal approval of bail bonds, orders in pending criminal cases shall be made only by the judge in charge of the criminal calendar.

(h) Motions to dismiss and nolle criminal cases in which there has been a mis-trial or in which a new trial has been granted, shall be made before the judge who presided at the former trial.

(i) Motions to reinstate defaulted bail shall be made before the judge who ordered the default.

(j) In all criminal cases where bonds for personal surety are presented for approval, the judge in charge of the criminal calendar shall require that said surety personally appear before him and justify the approval of any such bond.

RULE 18

ACTIONS ON BEHALF OF MINORS; SETTLEMENT. Where Rule 3 (a) (1) of the general rules of the district court of Minnesota, as amended in 1932, refers to actions brought on behalf of a minor or to actions brought by a parent or guardian, it shall also be understood as applying to claims made on behalf of a minor and to claims made by a parent or guardian where no action has been commenced. In any proceeding for a settlement of a minor's claim, the petition shall be filed before an order is made, and the order made therein shall be filed forthwith.

(b) All claims of minors in personal injury suits are to be settled and approved in open court, and a record kept by the reporter.

(c) The maximum fee to be allowed to attorneys for services rendered in minors' cases shall not exceed 33⅓ per cent of the amount recovered.

RULE 19

SERVICE OF NOTICE. Before service of notice shall be made pursuant to Section 543.17 Minnesota Statutes, 1945, Rules Civ.Proc. rules 5.02, 86.01, 86.02, or Section 481.12 Minnesota Statutes, 1945, M.S.A., on the Clerk of the Court or by mail, the relevant facts must be shown by affidavit and an order of the Court procured and filed authorizing such service.

RULE 20

PRELIMINARY EXAMINATION OF VENIREMEN. (a) A questionnaire in the form provided in paragraph (d) hereof shall be delivered to each venireman with his summons for jury service.

(b) These questionnaires when executed and returned shall be delivered forthwith by the clerk to the judge to whom the veniremen are required to report, who will promptly examine them, and whenever a statutory disqualification appears will notify the venireman that he is excused from jury service.

(c) When a jury is drawn and examined on his voir dire, his executed questionnaire shall be in the hands of the judge for inspection by counsel on either side.

(d) The questionnaire shall be in the following form:

QUESTIONNAIRE FOR PETIT JURORS

Q. What is your name? (Print plainly)
A. .....
Q. When and where were you born?
A. .....
(Give exact date)
Q. Where do you now live?
A. ..... Tel.....
(Give street address, if any)
Q. Are you a citizen of the United States?
A. .....
Q. What is your occupation, trade, or profession?
A. .....
Q. If employed, state name of employer?
A. .....
Q. Are you single, married, widowed, or divorced?
A. .....
Q. If married, what is your spouse's occupation or profession?
A. .....

Q. Are you now a qualified voter in this state?
A. .....
Q. How long have you lived in Hennepin county?
A. .....
Q. Have you made or has there been made in your behalf any application to be selected and returned as a juror?
A. .....
Q. Have you ever been convicted of a felony?
A. .....
Q. If so, have your civil rights been restored?
A. .....
Q. Are you now under indictment in any court?
A. .....
Q. Have you defects in your hearing?
A. .....
Q. Have you any defects in your vision?
A. .....
Q. When were you last a juror and in what court?
A. .....
Q. Have you ever been discharged (not excused) from jury service?
A. .....
Q. If so, for what cause?
A. .....
Subscribed and sworn to before me
This.....day of....., 19.... Sign here
....

RULE 21

AFFIDAVITS OF PREJUDICE. Where an affidavit of prejudice has been filed, the judge against who the affidavit is filed shall name the judge to whom the case is to be sent by written order, filed with the Clerk.

RULE 22

PHOTOGRAPHS IN COURT ROOM. No photographs shall be taken of or in any court room, except in non-judicial proceedings, and then only with the consent of the Judge.

Except as provided hereinabove, no photographic, broadcasting, tape or wire recording equipment shall be brought into or used in any court room, except tape recording machines used by an official court reporter in recording testimony.

RULE 23

LAND TITLE CALENDAR. There is hereby created what shall be known as a Land Title Calendar. Upon that calendar shall be placed the default Torrens cases which have heretofore been noted upon the Torrens Calendar and the default title cases which have heretofore been placed upon the General Term Calendar. Cases placed upon the Land Title Calendar shall be heard each Tuesday by the Examiner of Titles or Deputy Examiner as Referee, and the Judge in Chambers shall from time to time enter upon said calendar appropriate orders of reference referring said cases to said referees for hearing.

RULE 24

REGISTRATION OF LAND TITLE RULES

(a) **Manner of Service, Defendants Within the State.** Upon defendants residing or found within the state, the summons shall be served as in the manner provided for service in other civil actions except that, when practicable, the service shall be made by personally handing to and leaving with the defendant a true copy thereof.

(b) **Manner of Service, Non-Resident Defendants.** The recitals of the order for summons, to the effect that a defendant's address is outside the state or that his address is unknown shall constitute prima facie evidence that the defendant is not a resident of the state and cannot be found therein, and service shall be made accordingly as provided by statute for service upon non-residents, except as to any such defendants upon whom personal service is secured within the state.

(c) **Liens for Tax Or Local Assessment Sales.** Decrees in either initial or subsequent proceedings in which the title of the applicant is adjudged to be subject to certain liens arising from tax or local assessment sales shall specify such liens and shall provide that upon the filing with the registrar of the official receipt showing redemption from or payment of any such lien, the registrar shall cancel the memorial thereof. When the auditor's certificate upon any deed thereafter presented for registration shall show taxes to have been "paid by sale," any registration shall be made subject to the sales outstanding against the premises conveyed. The registrar shall note upon any residue certificate a statement that the premises therein described are subject to any taxes which may have accrued subsequent to the date of the original registration.

(d) **Hearings.** All hearings where no issue has been joined shall be had before the court at special term thereof on Wednesday of each week, and note of issue, together with all other papers relating to such registration, shall be filed with the clerk on or before the preceding Monday. In all cases where an answer is filed and not otherwise disposed of by order of the court, notice of trial shall be served and note of issue filed for the general term of court as in civil actions.

(e) **Cases in Which the Registrar May Act Without Special Order of Court.** In the following cases the special order of court need not be required unless it shall be requested by the registrar or examiner:

When the inchoate interest of a spouse of the registered owner has been terminated by death, the registrar may receive and enter as a memorial a duly certified copy of the official death certificate and an affidavit of identity of such deceased spouse; and in case such deceased spouse is a joint tenant, the registrar may issue a new certificate to the survivor or survivors in joint tenancy;

When the registered owner has married since the issuance of the certificate, the registrar may receive and enter as a memorial a duly certified copy of the marriage license and return;

When the interest of a life tenant has been terminated by death the registrar may receive and enter a memorial of a duly certified copy of the official death certificate and an affidavit of identity of the decedent with the life tenant named in the certificate of title; and in such case the memorial of the certificate and affidavit shall be treated as evidence of the discharge of the life tenancy.

Also, the provisions of rule (e) relative to accepting an official death certificate and an affidavit of identity as authority for entry of a new certificate in favor of the survivor or survivors in joint tenancy is declared to include joint tenancies consisting of persons other than husband and wife.

(f) **Practice in Relation to State Tax Deeds.** Excepting those cases where a certificate of title is outstanding in favor of the State of Minnesota, when a deed from the State of Minnesota in favor of the registered owner is offered for registration, it shall be registered as a memorial upon the certificate of title as evidence of discharge of any claim of title by the State of Minnesota evidenced by the prior memorial of an auditor's certificate of forfeiture to the state; and the same practice shall be followed in those cases where subsequent to or concurrent with a repurchase from the State of Minnesota by the registered owner, the latter shall have conveyed either by quitclaim deed or warranty deed the affected premises and the deed from the State of Minnesota in favor of the registered owner is dated subsequent to the date of conveyance of the registered owner or subsequent to the entry of the certificate in favor of the registered owner's grantee, in which case the fact that the repurchase from the State of Minnesota was concurrent with or prior to the date of the deed by the registered owner making such purchase shall be evidenced by an endorsement to that effect upon the state deed made by the county auditor, one of his deputies, or the county land commissioner.

(g) **Amendment to Rule 16 of District Court Rules.** Rule 16 in the Minnesota District Court rules pertaining to registration of land titles is amended as to proceedings in Hennepin county by omission of the provision that petitions for a new duplicate certificate shall show by a receipt of the registrar of titles endorsed thereon that duplicate of the petition has been delivered to him.

(h) **Deeds From Federal Housing Administrator.** In the registration of deeds or other instruments hereinafter listed for titles or interests registered in the name of an individual as Federal Housing Administrator, the registrar of titles shall be guided by Section 204 (g) of the National Housing Act as amended by the act of June 3, 1939, which confers upon any assistant administrator the power to convey and to execute in the name of the administrator deeds of conveyance, deeds of release, assignments of mortgages, satisfactions of mortgages, and any other written instrument relating to real property or any interest therein which has been acquired by the administrator; and that the registrar of titles shall accept the statement of the certificate of acknowledgment attached to any such instrument as evidence of the official character of the administrator or the assistant administrator executing the instrument.

(i) The Registrar of Titles is authorized to receive for registration of memorials upon any outstanding certificate of title an official birth certifi-

cate pertaining to a registered owner named in said certificate of title showing the date of birth of said registered owner, providing there is attached to said birth certificate an affidavit of an affiant who claims therein to be familiar with the facts recited, stating that the party named in said birth certificate is the same party as one of the owners named in said certificate of title; and that thereafter the Registrar of Titles shall treat said registered owner as having attained the age of majority at a date 21 years after the date of birth shown by said certificate.

(j) The Registrar of Titles may receive official certificates of death issued by the War Department, Navy Department and every military department of the United States Government in lieu of a certificate of death.

RULE 25

NOTICES OF BRINGING IN ADDITIONAL PARTIES. Any moving party in third party proceedings shall notify the assignment clerk of the names of the additional parties and their attorneys, and such notice shall be served upon the assignment clerk immediately after filing the order making the party an additional party.

RULE 26

GOOD BEHAVIOR. Unless otherwise directed by the court, whenever any person is committed to either *the Minneapolis City Workhouse, the Minneapolis* Women's Detention Home or County Jail, the superintendent in charge of either of said institutions shall give credit to such person of one day for each week of seven days for good behavior. Otherwise, such person shall serve his or her full time as imposed by the Court. In the event that any person is committed to either the Minneapolis City Workhouse or the Minneapolis Women's Detention Home and is thereafter placed on probation, if such person is thereafter recommitted because of violation of the terms thereof, such person shall not be entitled to credit for good behavior as hereinbefore set forth and shall serve his or her full time as imposed by the court.

RULE 27

MANDAMUS ACTION, TRIAL. After return is made in a Mandamus action it shall be referred to the assignment clerk for immediate trial, if in general term, otherwise at the first open date when a Judge is available.

RULE 28

PRE-TRIAL PROCEDURE. Any civil action may be pre-tried upon the request of the attorney for any party.

After notice to all attorneys in any case a request for pre-trial shall be given to the Clerk of District Court, Assignment Department. Those requests received by 4:00 P. M. Monday shall be assigned to one of the judges of the District Court for hearing at 9:00 A. M. on the following Friday. The Assignment Clerk shall forthwith notify the attorneys for the parties as to the time and the judge who will hear the matter.

The notice of assignment, together with the file, shall be given by the Clerk to the judge to whom it is assigned not later than Tuesday morning.

Except upon order of the Court, no application for pre-trial hearing will be accepted later than ten days after reception of the notice setting the case for trial.

RULE 29

THIRD PARTY PLAINTIFF OR DEFENDANT. When an application is made to the Court to bring in a third party plaintiff or defendant and an order therefor issued, the Court shall require the moving party *to file said order forthwith and serve a copy* thereof on the impleaded party. Said order shall further require the moving party to serve upon said impleaded party a Note of Issue in the event an answer is served by said party, and further require the filing of said Note of Issue in the office of the Clerk of the District Court and to simultaneously deposit a copy of said Note of Issue with the Assignment Clerk of said office.

RULE 30

DEPOSITION, NOTICE; FILING. Before any deposition is taken, the notice for taking the same shall be filed.

RULE 31

CONDEMNATION CASES; NOTICES OF APPEAL AND NOTES OF ISSUE. In condemnation cases all notices of appeal and notes of issue shall set forth therein the particular parcel involved together with the name of owner or particular claimant involved therein.

FIFTH JUDICIAL DISTRICT

RULE 1

SPECIAL TERMS. (No special terms are held in August.)

Blue Earth County: 2nd and 4th Mondays of each month.

Brown County: 4th Monday of each month.

Faribault County: 2nd Monday of each month.

Jackson County: 3rd Monday of each month.

Lyon County: 4th Monday of each month.

Martin County: 1st Monday of each month.

Pipestone County: 2nd Monday of each month.

Watonwan County: February, 4th Monday; May and October, 2nd Monday; other months, 2nd and 4th Mondays, 1:00 P.M.

In the event that any of the above days is a holiday the special term shall be held on the following day.

RULE 2

CALL OF THE CALENDAR. Hereafter and until the further order of this court, the call of the calendar shall be held at 10:00 o'clock in the forenoon of the opening day of each general term.

RULE 3

PETIT JURY. Hereafter and until the further order of the court, the petit jury shall be summoned to appear at 10:00 o'clock in the forenoon of the first Monday following the opening day of each general term.

RULE 4

ADDING CASES TO THE CALENDAR. Cases may not be added at the call of the calendar.

RULE 5

MOTIONS. All motions made on the call of the calendar shall be heard on the opening day of each general term, and motions made upon notice for hearing at the term shall be set for the opening day, and all motions shall be heard in the order in which they appear.

Default cases shall be heard after the hearing of motions.

RULE 6

TRIALS; TIMES OF OPENING AND CLOSING. Hereafter and until the further order of this court, at all regular jury terms held in this District, court shall open at 9:30 o'clock in the forenoon and close at 4:30 o'clock in the afternoon, with an intermission of an hour and thirty minutes at noon and a fifteen minute recess in the forenoon and afternoon of each day, subject, however, to the right of the presiding Judge to change the times of opening and closing as conditions may require or as such Judge shall deem feasible under the circumstances.

No court shall be held on Saturdays unless the presiding Judge deems it necessary or expedient.

RULE 7

STRIKING CASES FROM CALENDAR. When a case is not ready for trial, without just cause, it may be stricken from the calendar.

RULE 8

DIVORCE CASES. Divorce cases may not be heard until after thirty days following service of summons and complaint; and in Blue Earth County all divorce cases shall be on the printed calendar.

RULE 9

MINOR SETTLEMENTS. In minor settlements the minor shall be represented by counsel.

RULE 10

SUPPLEMENTARY TO GENERAL RULES. The foregoing rules are in addition to the Code of Rules which are applicable to the District Court throughout the state.

SIXTH JUDICIAL DISTRICT

RULE 1

SPECIAL TERMS. Special terms of the District Court in the Sixth Judicial District shall be held as follows:

Carlton County. At 2:00 o'clock, P.M., on the first and third Wednesday of each month excepting July and August, and at 2:00 o'clock P.M. on the third Wednesday in July and August.

Cook County. Special term matters may be noted to be heard at the call of the calendar at any general term.

Lake County. At 2:00 o'clock, P.M. on the

fourth Wednesday of each month.

Special term matters of which the venue would normally be in Carlton, Cook, or Lake County may be heard on the regular special term to be held in Duluth upon order of a District Judge.

St. Louis County:

At Duluth. At 9:30 o'clock, A.M. on Monday through Thursday of each week.

At Virginia. At 9:30 o'clock, A.M. on the second and fourth Friday of each month except August.

At Hibbing. At 9:30 o'clock, A.M., on the first and third Friday of each month except August.

Special term matters of which the venue would be Ely may be noted to be heard at Virginia at any special term for that city.

Special term matters for the County of St. Louis shall be noted for and heard at the place of trial designated for contested matters in Sections 484.47-484.52 unless otherwise ordered by a District Judge.

RULE 2

MOTIONS, PETITIONS, AND APPLICATIONS. Motions, petitions, and applications may be heard on any special term. (Question of facts.) No matter shall be heard at a special term in which controversy exists which will require the taking of testimony, except such matters as are specifically provided for by law, unless special arrangements are made prior to said hearing with the special term Judge.

RULE 3

APPLICATIONS IN DIVORCE ACTIONS. In applications for temporary alimony, support of the parties, custody, or attorney's fees in divorce actions, affidavits in support of or in opposition thereto shall be in the form prescribed by Rule No. 9 of the General Rules for District Courts. No oral testimony shall be taken on hearings in special term upon such matters unless specifically authorized by the Judge in charge of such term.

RULE 4

DIVORCE CASES; DEFAULT, SETTING. Divorce cases in which the 30 days time for answering has expired and default has been made and in which the summons and complaint with proof of service thereof have been filed with the Clerk of Court, and all causes requiring the taking of testimony in which the time for answering has expired and default has been made, and in which the summons and complaint with proof of service have been filed with the Clerk, shall, upon filing with the Clerk a note of issue, be placed upon the special term calendar for such date as may be specified by the party filing the note of issue.

RULE 5

RESTRAINING ORDER OR TEMPORARY INJUNCTION. The Judge who issues a restraining order or temporary injunction in a matter other than one arising out of domestic relations shall retain jurisdiction of such matter for all preliminary proceedings therein unless otherwise ordered.

RULE 6

PETIT JURY; CALL OF CALENDAR. The calendar for each general term in the district will be called at 10:00 o'clock, A.M. on the opening day of such term in the courthouse where such term will be held. All calendar motions, including motions involving setting of cases for such term or continuances, and all requests for pre-trial conferences shall be made at the call of the calendar.

The petit jury for each term to be held at Duluth, Virginia, and Hibbing shall be summoned for the first Monday after the call of the calendar.

The petit jury to be summoned for Ely or for Carlton County, Cook County, or Lake County shall be summoned for the day following the call of the calendar unless otherwise ordered by the Judge presiding at such term. At each general jury term held at the City of Duluth, a new panel or jurors will be called every two weeks unless otherwise ordered by the Presiding Judge.

RULE 7

FILING; SUMMONS, COMPLAINTS, NOTE OF ISSUE. Summons and complaints are to be filed in the Clerk's office no later than the time for filing notes of issue. The party filing a note of issue shall state thereon the date of service of summons and complaint on the last defendant, not including third-party defendants. No matter may be placed upon any calendar unless the note of issue was filed with the clerk as provided by Rule 38.03 of the Rules of Civil Procedure.

RULE 8

FILING PLEADINGS. All pleadings and other papers must be plainly endorsed on the outside of the paper with the title of the case and the name or character of the paper endorsed thereon below the title of the case before the same is presented to the Clerk of the District Court for filing, and in contested cases, all pleadings and other papers required to be filed shall be filed on or before the second day of the term at which the action is noticed for trial.

RULE 9

PRE-TRIAL CONFERENCE. On the filing of note of issue in any action, the party filing the same may note upon said note of issue a request for a pre-trial conference, whereupon the Clerk of Court, in making up the calendar of actions for trial, will note on the calendar, "Pre-trial conference requested." If such pre-trial is not requested, any other party may, at the call of the calendar, request pre-trial conference. If pre-trial conference is requested, the presiding Judge shall, at the call of the calendar, fix a time and place for such pre-trial conference. The presiding Judge at a general term, or the Judge to whom a case is assigned for trial, may, upon his own motion, order that a pre-trial conference be had. After pre-trial conference, the Judge hearing the same small make a pre-trial order regulating the matters covered by such conference.

RULE 10

CALENDAR. In preparing calendars for each term of Court, the Clerk shall list separately cases to be tried by the jury and by the Court, and on each separate calendar, the continued cases shall appear first, being so designated and appearing in the order in which they appeared on the last term from which they were continued, and the calendar shall designate the term on which they first appeared for trial. After the continued cases, the Clerk shall list the new cases which shall appear on the calendar in the order in which notes of issue were filed in such cases and shall note upon the calendar the date of the service of the first proceeding in such cause.

RULE 11

ASSIGNMENT CLERK; DUTIES. The Clerk shall assign a duly appointed deputy clerk from his office who shall be designated as the assignment clerk, and he shall act under the general instructions of the presiding Judge in connection with the assignment of civil cases to the several Judges for trial.

It shall be the duty of the assignment clerk to set for trial each day that the Court is in session a sufficient number of cases to keep the Courts occupied, and he shall notify all attorneys as to the day their cases are set for trial.

The clerk shall also assign to each Trial Court a deputy clerk who shall be in constant attendance during the sessions of the Court, and whose first duty shall be the clerical details of and pertaining to the trial work.

Each case shall be assigned for trial in accordance with the regular order of setting to the first Judge who is ready for a new case. Such assignments shall be maintained and the cases tried in such order and before such Judge unless affidavit of prejudice is filed in accordance with the statutes against such Judge, in which event the case shall be assigned to the next available Judge.

If any Judge shall feel for personal reasons or otherwise that he cannot try a particular case assigned to him, he shall so report to the presiding Judge.

The assignment clerk shall never under any consideration assign cases to Judges other than in their regular order, and in the regular order in which the Judges notify him that they are ready for cases, except as hereinbefore provided.

RULE 12

TRIAL DATES. Cases shall be assigned trial dates as nearly as possible in the order in which they appear on the calendar, provided that no trial date assigned to a case shall be less than 80 days from the date the summons and complaint was served on the last defendant, not including third-party defendants. However, upon notice and a showing of hardship by a party, the Court may assign to a case a trial date less than 80 days after such service of summons and complaint.

RULE 13

CALENDAR; SETTLEMENTS. Counsel shall promptly advise the Judge in charge of the calendar of settlements made.

RULE 14

COURT SESSIONS. Court sessions will be held from 9:30 A.M. until 12:00 o'clock noon, and from 2:00 P.M. until 4:30 in the afternoon, and insofar as possible the Court will not allow time to be taken up during those hours with discussion with counsel concerning possible settlement or other matters.

RULE 15

CONTINUANCES. When a case has been noted for trial at a term of the District Court and has been set for trial, it may not be continued except upon order of the presiding judge.

RULE 16

EXHIBITS. All exhibits, introduced in evidence by any party in the trial of all actions, shall be marked by the stenographer and shall be left in custody of the stenographer until the close of the trial of said cause, and when the trial of any cause is completed, the stenographer shall deliver all exhibits introduced in evidence in each case, to the clerk of the said Court, and the said clerk shall cause the same to be filed and kept in a proper and safe place, and shall cause to be made and shall keep a proper index or reference book, wherein shall be kept a list of all such exhibits, with reference to their place of deposit, so that they can be readily found by any parties interested therein, and no person or persons shall be permitted to remove any of such exhibits from such depository, except upon the written order of the Court: Provided, that all attorneys and interested parties shall have an opportunity to examine the same in the office of the said clerk, under reasonable provisions to be provided therefor.

RULE 17

EXAMINATIONS; MEMBERS OF PANEL. All members of the panel selected for a particular case shall, before examination as to their qualifications, be sworn to make true answers to all questions asked of them bearing on their qualifications to serve as jurors in such case.

RULE 18

PETIT JURY; LIMITATION ON SERVICE. No person shall serve as a member of the petit jury who has served within two years on a petit jury in the county for which he is summoned. This provision shall not apply to talesmen who are summoned by the sheriff for a particular case where a shortage of jurors available in the general term panel develops.

RULE 19

JURISDICTION OF JUDGE; CRIMINAL MATTERS. The Judge before whom a person charged with crime is arraigned shall retain jurisdiction of such matter until disposed of unless the trial of such matter on the merits shall be commenced before a different Judge on a general term or unless otherwise ordered.

RULE 20

APPEALS FROM MUNICIPAL COURT. When an appeal is perfected from the Municipal Court to the District Court, said appeal shall be heard as a Court case by a single District Court Judge at the next general term of Court.

RULE 21

SPECIAL RULES APPLICABLE IN PROCEEDINGS WITH REFERENCE TO REGISTERED PROPERTY. In St. Louis County, without an order of Court (unless such order is requested by the examiner or by the registrar), where the certificate of title shows:

1. The owner to be unmarried; and after its issuance the owner has married; the registrar may receive and register as memorials upon any certificate of title to which they pertain, a certified copy of the marriage record showing the subsequent marriage of the owner; and in all subsequent dealings with the land covered by such certificate the registrar shall give full faith to these memorials.

2. The owner to be married; and after its issuance the owner's spouse has died; the registrar may receive and register as memorials upon any certificate of title to which they pertain, a certified copy of the death record of the owner's spouse, when accompanied by an affidavit satisfactory to the registrar identifying the decedent named in the death record as the deceased spouse; and in all subsequent dealings with the land covered by such certificate the registrar shall give full faith to these memorials.

3. The owner to be under disability by reason of minority; the registrar may receive and register as memorials upon any certificate of title to which they pertain, a certified copy of the birth record of the owner, when accompanied by an affidavit satisfactory to the registrar identifying the person whose date of birth is established by the birth record as the owner and also stating that said person is under no other disability; and the registrar shall thereafter treat the owner as having attained the age of majority at a date 21 years after the date of birth shown by the birth record.

4. Two or more owners as joint tenants; and after its issuance one of them has died; the registrar may receive and register as memorials upon any certificate of title to which they pertain, a certified copy of the death record of the joint tenant who died, when accompanied (a) by an affidavit satisfactory to the registrar identifying the decedent as the joint tenant who died and (b) by the certificate of the Commissioner of Taxation of the State of Minnesota that any lien for inheritance taxes that the State of Minnesota may have upon the property described in the certificate of title is waived or is satisfied; and upon the surrender of the owner's duplicate certificate of title accompanied by the grantee's affidavit described in section 508.13 of Minn. Stat. 1957, the registrar shall issue a new certificate of title to the survivor in severalty or to the survivors in joint tenancy, as the case may be.

SEVENTH JUDICIAL DISTRICT

RULE 1

SPECIAL TERM. Four special terms shall be held in each county of this district during the summer months, one commencing on the fourth Monday in June, one commencing on the second Monday in July, one commencing on the fourth Monday in July, and one commencing on the second Monday in August, but no contested fact issue shall be heard at such special terms. Each of the Judges of the district shall hold one of these weekly cycles, assignment to be made by the Chief Judge of the district by order filed not later than June 1st of each year. The Judge to whom the special terms for the designated week have been assigned shall determine the sequence thereof by an order to be filed in the offices of the respective Clerks of Court not less than fifteen (15) days prior to the time so fixed for such special term, which said order shall state the date for all special terms of that week.

RULE 2

DIVORCE JUDGMENT; REOPENING. Proceedings to reopen and to modify judgment in divorce matters, whether pertaining to alimony and property settlement or to the custody, maintenance and support of minor children, shall be heard by the Judge upon whose order such decree was docketed if said Judge then continues to hold judicial office in this district, unless he be then incapacitated or otherwise disqualified.

RULE 3

DIVORCE; TRIAL. No action for divorce or separate maintenance shall be heard upon its merits within thirty (30) days following service of summons, and in all default proceedings a stenographic record shall be taken and transcribed by the official Reporter, a minimum fee of Five ($5.00) Dollars to be paid such Reporter by the moving party. All matters to be heard at any special term shall be filed with the clerk and placed upon a typewritten calendar for said term.

RULE 4

ADOPTION. In adoption proceedings a child under fourteen (14) years of age shall be present before the Court, and if such child be over fourteen years of age he or she shall consent in writing. If one to be adopted shall be an adult, he or she shall join as a party to the proceeding and be a resident of the county in which the action is brought. An adult, to be adopted, shall appear before the Court in person or by counsel, but if not personally present to testify, then his or her deposition or verified consent shall be presented in manner provided by law. If the petition of an adult seeks also a change of name, it shall conform to section 259.10.

RULE 5

MINORS; APPROVAL OF SETTLEMENT. Applications for the approval of settlement, in actions brought on behalf of minor children, shall bear the endorsement of counsel for such minor and shall disclose whether or not counsel therein is in fact retained by or to be compensated, directly or indirectly, by a person whose interests are adverse to said minor.

RULE 6

MINOR SETTLEMENT; DEPOSIT. Whenever the Court shall approve settlement on behalf of a minor and order that in lieu of bond any money so received be deposited as a savings account in a banking institution or trust company, or that it be invested in approved securities, the account so established shall continue until said minor shall have become of lawful age, or until a general guardian shall have been duly appointed and qualified, whereupon the Court may order payment by said depository of said trust fund to the lawful owner or guardian, as the case may be, a copy of the order designating such depository and a copy of any subsequent order relating thereto to be furnished said depository, the deposit book or other securities to be filed with the Clerk of Court.

RULE 7

PRE-TRIAL CONFERENCE. After the filing of a note of issue and not less than ten (10) days before the opening of a general term, any party to any action desiring a pre-trial conference pursuant to Rule 16 of the Rules of Civil Procedure for the District Courts, shall make a written request therefor addressed to the Judge assigned to preside at the general term at which such action is pending. The Judge, in the exercise of discretion, may thereupon make and file an order directing the attorneys to appear at a time and place therein specified, to consider matters contemplated by said rule.

RULE 8

ORDER FOR PLACING CASES ON PRINTED CALENDAR. Upon the filing of the Note of Issue require by Rule 38.03 of the Rules of Civil Procedure, the Clerk shall enter the cause on the calendar according to the time of filing of the Note of Issue. Adopted March 8, 1952.

No civil action shall be added to the printed Calendar at the call thereof except for cause or excusable neglect and then only if:

(a) all the pleadings have been filed with the Clerk prior to the motion and

(b) if all parties to the action join in said motion.

(Such motion shall be in writing and the essential facts shall be set forth by affidavit attached thereto.)

RULE 9

NONRESIDENT ATTORNEY. An attorney or counsellor at law residing in a sister state or territory wherein he or she is duly licensed to practice, when present before the court and desirous of conducting or participating in the trial of a proceeding here pending and in which he is authorized to represent one or more of the litigants, may, pursuant to section 481.02 and subject to our Rules of Civil Procedure, on motion duly made of record by a member of the bar of this state associated in said cause and to continue present throughout said trial as one of counsel for said litigant, at the court's discretion be permitted to take part in and to conduct the presentation of such cause, to all intents and purposes as though duly licensed to practice his profession in this state.

RULE 10

EXHIBITS. All exhibits received in evidence upon the trial of causes shall remain thenceforth in the custody of the court reporter until submitted to a jury; provided that when a cause is taken under advisement by the court such exhibits shall be retained by the clerk of court subject to further order. Upon the return of a sealed verdict, or immediately upon the reception of a verdict, or upon the discharge of a jury because of inability to agree, the bailiff in charge shall return all exhibits to the clerk, who shall receive and safely retain them subject to further order. Six months after final disposition of any cause tried in said court and after written notice to counsel, the clerk shall destroy or otherwise dispose of all exhibits, except public records, pertaining to said cause then remaining in his custody, the purpose of this rule being that all exhibits in any cause tried in the District Court of the Seventh Judicial District of the State of Minnesota shall be received subject to the right of destruction or other disposition in conformity with the terms hereof. Six years after final disposition of the cause in which they were made and filed, the clerk may destroy the court reporter's shorthand notes then in his custody.

NINTH JUDICIAL DISTRICT

RULE 1

DIVISIONS AND DEFINITIONS

1.01 Divisions. For purposes of dividing between the judges and otherwise regulating the business of the Court the district may be divided into six divisions. So far as practically may be each division shall consist of two or more counties, shall be given a number for convenience of reference, and shall have therein the permanent chambers of one of the judges. The designation of the counties constituting each division, the numbering thereof, and the designation of a particular judge to act as the division judge thereof may be made from time to time by orders of the judges filed with the clerk in each of the counties of the district. Until otherwise ordered the district shall be deemed divided into divisions, numbered, and consisting of counties as follows: the First Division shall consist of the counties of Kittson, Marshall, Pennington and Roseau; the Second Division shall consist of the counties of Koochiching and Lake of the Woods; the Third Division shall consist of the counties of Mahnomen, Norman, Polk and Red Lake; the Fourth Division shall consist of the counties of Beltrami, Clearwater and Hubbard; the Fifth Division shall consist of the counties of Itasca and Cass; and the Sixth Division shall consist of the counties of Aitkin and Crow Wing.

1.02 Definitions. Unless the language or context indicates that a different meaning is intended the following words, terms, phrases and abbreviations, for the purposes of these rules, shall be given the meaning subjoined to them.

(a) "Clerk" means the Clerk of the District Court for the appropriate county.

(b) "District" means the Ninth Judicial District of the state for the District Court.

(c) "Division" means one of the divisions into which the district is deemed to be divided.

(d) "Chief Judge" means the judge elected as such for the district in accordance with M.S.A. Sec. 484.34.

(e) "Judge of the Division" or "Division Judge" means the judge having his permanent chambers in the division or who has been designated by an order as the judge of the division.

(f) "Term Judge" means the judge assigned to preside at a term of court.

(g) "Trial Judge" means the judge who has presided, or is presiding, or who has been designated or assigned to preside, or who is likely to preside at the hearing or trial of a particular matter.

(h) "Preliminary Call" means the preliminary call of the cases upon the calendar of a general term of court.

(i) "Peremptory Call" means the peremptory call for trial of cases to be tried at a general term of court.

(j) "Person" includes an individual, corporation, partnership, or other association.

(k) "Spring Term" means a general term of court in a county, the opening day of which occurs between the first day of February and the thirty-first day of May in any year.

(l) "Fall Term" means a general term of court in a county, the opening day of which occurs between the first day of September and the thirty-first day of December in any year.

(m) "M.S.A." means Minnesota Statutes Annotated.

(n) "R.C.P." means Rules of Civil Procedure for the District Court of Minnesota.

RULE 2

JUDGES WHO WILL PRESIDE AT TERMS.

2.01 Unless designations, assignments, or arrangements are made otherwise, judges will preside at terms of court as herein provided:

(a) **Fall General Terms.** The judge of a division shall be deemed to have been designated and assigned to preside at the fall general term of court in each of the counties of his division.

(b) **Spring General Terms.** The judges of the district, by action taken at a meeting or by a joint

order, may designate and assign the judge or judges who will preside at the spring general term of court in each county of the district. In the event the judges of the district do not so designate and assign a judge to preside at the spring general term in any county before the first day of January preceding the term, then the chief judge shall designate and assign one or more judges of the district to preside at the spring general term in such county in accordance with M.S.A. Sec. 484.34. The judge of a division shall not be designated or assigned to preside at a spring general term in any county of his division.

(c) **Special Terms.** The judge of a division shall preside at the special terms of court which are appointed to be held in the counties of his division.

RULE 3

HANDLING OF BUSINESS OF COURT BY JUDGES.

3.01 Division of Business. The business of the court may be divided between the judges of the district and otherwise regulated by orders of the judges made from time to time and filed with the clerk in each of the counties of the district. Until otherwise ordered the business of the court is divided between the judges and matters shall be handled by individual judges as in this rule provided, unless a particular matter is otherwise assigned to be handled.

(a) **Matters Upon the Calendar.** Except as otherwise provided in these rules the term judge shall preside at the hearing and trial and shall be considered primarily responsible for the disposition of all matters upon the calendar of a term of court. He shall handle the business of the court pertaining to the holding of the term. It shall, however, be considered proper for the division judge, to the extent he has the time available and may conveniently do so, to assist the term judge in the handling of the business of the court pertaining to the holding of the term.

(b) **Pretrial Matters.** All pretrial applications, motions, conferences and proceedings in any action likely to be heard or tried at a current or next ensuing term of court in any county shall be brought on for hearing and be heard by the trial judge.

(c) **Post-trial Matters.** Except as otherwise provided in these rules, post-trial applications, motions and proceedings in an action shall be brought on for hearing and be heard by the trial judge.

(d) **Enforcement of or Relief from Final Orders or Judgments in Marital Actions.** All applications, motions and proceedings to enforce or to amend, vacate, or obtain relief from a judgment in an action for divorce or separate maintenance or any final order therein made pertaining to the marital relationship, a property settlement, the award of the custody of a child, the award of alimony or support money or other matters involved in the action shall be brought on for hearing and be heard by the judge who made such order or the order directing the entry of the judgment.

(e) **Enforcement of or Relief from Orders and Certain Judgments in Non-Marital Actions.** Except as otherwise provided in these rules, all applications, motions and proceedings to enforce or to amend, vacate, or obtain relief from any order or from any judgment entered pursuant to an order in any action other than one for divorce or separate maintenance shall be brought on for hearing and be heard by the judge who made such order or the order directing the entry of such judgment.

(f) **Post-judgment Proceedings in Paternity Actions.** Proceedings in a paternity action instituted for the purpose of having the defendant adjudged in contempt because of his disobedience of a judgment or final order or to enforce the obligations therein imposed upon the defendant shall be brought on for hearing and be heard by the division judge.

(g) **Matters Extensively Handled by a Judge.** Where a judge has handled extensively motions, proceedings or other business of the court in a particular matter he shall continue to handle the subsequent business of the court in that matter if another judge cannot readily handle such subsequent business without considerable study or examination of the files and records of the court.

(h) **Retrial of Action.** If a new trial is granted in an action, it shall be assigned to be retried by a judge other than the one who presided at the previous trial.

(i) **Criminal Actions Not on Calendar.** Arraignments, applications, motions and proceedings in criminal actions not upon the calendar of a term of court, shall be brought on to be heard by the division judge but he may direct a defendant who is to be tried by jury, to appear for trial and subsequent proceedings in the action before the term judge of the next ensuing term or the term judge of a current term if the jury trial work upon the calendar of such current term has not been completed.

(j) **Other Business.** Except as hereinabove otherwise provided all applications, motions, proceedings, matters or other business of the court in any county shall be presented for attention to or brought on to be heard by the division judge who shall be considered primarily responsible for the handling and disposition of the same. It shall, however, be considered proper for any judge of the district, to the extent he has the time available and may conveniently do so, to assist the division judge in the handling of the business of the court within the county. A judge of the district, when within a county on assignment to preside at a term of court therein, shall freely give assistance in handling the business of the court in the county if he may conveniently do so.

3.02 Dispensation from Compliance. Any judge of the district may dispense a person from complying with any provision of this rule in a particular matter and consent to handle such matter himself if he considers that under the circumstances compliance with such provision would result in grossly excessive expenses, delay, travelling or other substantial hardship.

RULE 4

DRAWING AND SUMMONING PETIT JURORS, SELECTION OF JURORS.

4.01 Number of Petit Jurors to be Drawn. Unless otherwise ordered there shall be drawn for the petit jury panel for a general term of court in each of the counties hereafter named the number of jurors set after the name of the county, to-wit:

Aitkin	36	Lake of the Woods	30
Beltrami	45	Mahnomen	36
Cass	36	Marshall	40
Clearwater	30	Norman	36
Crow Wing	45	Pennington	40
Hubbard	36	Polk	45
Itasca	40	Red Lake	36
Kittson	36	Roseau	36
Koochiching	36		

4.02 Notification of Jurors and Questionnaire. The clerk immediately after the petit jurors are drawn for the panel of a general term shall mail a letter to each juror notifying him; that he has been so drawn for jury service; the date he will likely be called to report for service; that any application for excusal from service must be presented so that the term judge may pass upon it at 10:00 A.M. on the opening day of the term, and requesting the juror to return to the clerk within five days a questionnaire in a form approved by the judges of the district which is enclosed with the letter.

4.03 Abstract of Information on Questionnaires. The clerk shall compile an abstract of the information contained in the questionnaires which the jurors shall return to him. A copy of this abstract shall be made available for use of the attorneys participating in the trial of a jury case at the term.

4.04 Summoning Petit Jurors. Unless otherwise ordered the petit jurors on a panel for a general term shall be summoned to appear to begin service at 9:30 A.M. on Tuesday following the opening day of a spring general term and on Monday following the opening day of a fall general term.

4.05 Selection of Jurors for a Civil Case. In selecting a jury for a civil case as provided in M.S.A. Sec. 546.09 the clerk shall draw from the jury box ballots twelve names together with sufficient additional names to cover the requirements of the provisions of M.S.A. Sec. 546.10.

RULE 5

CALENDARS.

5.01 Form of Calendars. The calendars to be provided by the clerk for a general term of court

in a county required by M.S.A. Sec. 485.11, as near as practically may be, shall be in booklet form approximately five and a half inches wide and eight and a half inches high.

5.02 Contents of Calendar. The calendar shall contain a suitable title page; the names and addresses of the officers of the court; the names and addresses of the attorneys who have been admitted to and are actively engaged in the practice of law within the state and who reside within the county; the names and addresses of the veniremen, listed alphabetically as to surnames and consecutively numbered, who have been drawn for the petit jury panel at the term; a civil cases section; a criminal cases section; a quasi-criminal cases section; a pretrial conferences section; space for the "Term Trial Docket"; and an index of the cases in the civil cases section if they exceed twenty in number. In entering the cases in the sections above mentioned not more than two cases shall be entered on each page and as to each case there shall be accurately set forth, its calendar and its register number, the names and addresses of the attorneys representing parties; and following each case at least two inches of space shall be provided to permit the making of notations. In entering each case in the civil cases section there shall also be set forth whether the issue is one of fact or of law and if an issue of fact whether it is triable by court or by jury as appears from the note of issue or any stipulation on file. In entering each case in the criminal cases section the nature of the charge against the defendant shall be set forth. A citation issued pursuant to M.S.A. Sec. 277.06 shall not be entered in the civil cases section unless there has been an appearance by the delinquent to whom the citation was issued and the matter is likely to be tried.

5.03 Civil Cases Section. In the civil cases section the clerk shall enter: (1) all civil cases continued for trial at the term and all civil cases appearing in the civil cases section of the calendar of the previous term which were not tried, otherwise disposed of, or stricken from the calendar, such cases to be so entered in the order in which the same appeared in the civil cases section of the calendar of the previous term; (2) all civil cases in which a note of issue shall have been filed in accordance with R.C.P. Rule 38.03 for the purpose of placing the action upon the calendar for trial at the term, such cases to be so entered in the order of the time of the filing of the notes of issue; and (3) all other civil cases commenced in the district court or appealed or transferred thereto and required by law to be placed upon the calendar, the same to be entered thereon at the time and in the manner prescribed by law upon compliance being had with the provisions of the respective statutes relating thereto. The motion of a party who has neglected to timely file a note of issue as required by R.C.P. Rule 38.03 to place a civil case upon the calendar may be denied even when there is consent of the adverse party unless there is a showing that the neglect was excusable.

5.04 Criminal Cases Section. In the criminal cases section the clerk shall enter: (1) all criminal cases pending to be tried in which an indictment or information has been filed enumerating them according to the date of the filing of such indictment or information and specifying the information required to be stated by M.S.A. Sec. 630.35; (2) all criminal cases in the order they appear in the register of criminal actions, triable at the term wherein the defendant has been bound over to appear before the court but wherein no indictment or information was filed before the preparation of the calendar; and (3) all criminal cases and violations of ordinances in the order they appear in the register of criminal actions appealed to or transferred to the court which are triable at the term.

5.05 Quasi-Criminal Cases Section. In the quasi-criminal cases section the clerk shall enter in the order in which they appear in the register of actions all cases triable at the term wherein a complaint has been filed charging a defendant of being the father of an illegitimate child.

5.06 Pretrial Conferences Section. The clerk shall enter in the pretrial conferences section the following: (1) such of the cases entered in the civil cases section wherein, as appears from the files, a claim is involved arising out of a transaction which occurred out of the state; (2) such of the cases entered in the civil cases section wherein, as appears from the files, the court may be asked to take judicial notice of the laws of a state, territory or jurisdiction other than Minnesota; (3) such of the cases in the civil cases section wherein, as appears from the files, an accounting from one party to another is prayed for in a pleading; and (4) such other cases as may be ordered to be so entered before the preparation of the calendar.

5.07 Term Trial Docket. Space shall be provided in a part of the calendar which shall be entitled "Term Trial Docket" and which will permit the court officers and attorneys at the preliminary call or thereafter to enter and set forth in their respective copies of the calendar the cases appearing in the various sections having issues to be tried at the term as the same may be set for trial by order or rule of court. Such space shall provide three columns which shall be entitled substantially as follows:

TERM TRIAL DOCKET

Position or Day Certain	Calendar Number	Abbreviated Title of Case and Memorandum

5.08 Numbering of Cases in Calendar. The clerk shall give to each case entered in the civil cases section, the criminal cases section and the quasi-criminal cases section a calendar number, numbering the cases consecutively in the order they appear in each of said sections beginning with Number 1. To avoid confusion the number given a case in the criminal cases section shall be prefixed by the abbreviation "Cr." and the number given a case in the quasi-criminal cases section shall be prefixed by the abbreviation "Q.Cr." A case entered in the pretrial conferences section shall retain the calendar number given to it as appears in the civil cases section.

RULE 6

PRETRIAL CONFERENCES UNDER R.C.P. RULE 16.

6.01 To Whom Assigned for Hearing. Unless assigned to be held otherwise a pretrial conference under R.C.P. Rule 16 shall be deemed assigned to be held and heard by the trial judge in the case.

6.02 Motion for Conference. Upon notice given in accordance with R.C.P. Rule 16 a party may move the court before the opening day of the general term during which a case is to be tried or when his case is called at the preliminary call on that day for an order directing the attorneys for the parties and any party not represented by attorney to appear before it for a conference at such time and place as may be designated by the court. When the motion is noticed to be made at the preliminary call, the parties should anticipate that if the motion is granted the court may direct the conference to be held at a time designated in the afternoon of the opening day of the term or, if necessary, on a day following in the same week.

6.03 Order for Conference. An order in writing directing a conference under R.C.P. Rule 16 may be made at any time by a judge, and may be made by the clerk under the authority of the court in a case appearing in the pretrial conferences section of the calendar when directed to do so by the judge who is to hold the conference. A copy of such written order shall be mailed to the attorneys and parties, if any, directed to appear at the conference, at least five days before the time designated for the conference. The judge presiding at the preliminary call on the opening day of a general term may direct such a conference in any action properly on the calendar by an oral order made in open court and entered in the minutes of the court.

6.04 Attendance at Conference. A party not represented by attorney who has been directed to appear for a conference shall personally appear therefor before the court at the time and place designated. A party whose attorney has been directed to appear for a conference shall cause such attorney (preferably the attorney who will try the case in his behalf) to appear therefor before the court at the time and place designated and the party shall vest the attorney so appearing with full authority of a trial attorney to make admissions and disclosures and to enter into agreements and stipulations with respect to all matters to be considered at the conference within the purview of R.C.P. Rule 16.

6.05 Exhibits. A party or his attorney when directed to appear for any such conference shall bring with him all exhibits within the custody or control

of such party or his attorney which will be offered in evidence by the party at the trial to the end that all such exhibits may be marked for identification and examined by the adversary at the conference and such party shall disclose at the conference the identity of all exhibits not then in his custody or control, which he intends to offer at the trial. Any exhibit which without good cause a party does not produce to be marked for identification at the conference if it is then in his custody or control, or the identity of which he does not disclose at the conference if it is not in his custody or control, may be denied admission when offered in evidence by such party at the trial, but such exhibit may be admitted in evidence in the discretion of the court to prevent manifest injustice.

6.06 Evidence or Notice of Laws of Another Jurisdiction. If a pretrial conference is held in a case in which evidence would be admissible or judicial notice should be taken of the common law or statutes of a state, territory, or jurisdiction other than Minnesota in accordance with the Uniform Judicial Notice of Foreign Law Act (M.S.A. Sections 599.04 to 599.10) each of the parties shall serve upon the adverse party and present at the conference a written notice specifically setting forth a concise statement of the common law and the particular provisions of the statutes of which he will at the trial offer evidence or request the court to take judicial notice. He shall furnish to the court at the conference citations of the sources and authorities which he contends will support the offer or request.

6.07 Evidence or Notice of Charters, Ordinances, Regulations, etc. If a pretrial conference is held in a case in which evidence would be admissible or judicial notice may be taken of any private act or resolve, of any charter, ordinance or by-law of a municipality, or of any rule, regulation or order of a governmental division or agency, a party intending to offer evidence or request the taking of judicial notice thereof at the trial, shall submit at the pretrial conference the particular provisions or which he will offer evidence or request the taking of judicial notice together with sufficient information to enable the court to properly pass upon the offer or request.

6.08 Judicial Notice of Other Matters. If a pretrial conference is held in a case in which a party intends to request that the court take judicial notice at the trial of specific facts which he contends to be so notorious as not to be the subject of reasonable dispute, or specific facts or propositions of generalized knowledge which he contends are capable of immediate and accurate determination by resort to easily accessible sources of indisputable accuracy, he shall at the pretrial conference submit to the court his request in writing setting forth such specific facts or propositions and furnish information which he contends to be sufficient to enable the court to comply with the request.

6.09 Certificate of Readiness. In lieu of holding a pretrial conference in any case which appears in the pretrial conferences section of the calendar or wherein such a conference has been ordered, the trial judge may accept and cause to be filed a certificate of readiness in such form as he may approve, signed by the attorneys representing the parties.

RULE 7

CALLS OF CALENDAR — TERM TRIAL DOCKET.

7.01 Two Calls, Preliminary and Peremptory. There shall be two calls of the calendar of a general term of court, a preliminary call and a peremptory call.

7.02 Preliminary Call. The preliminary call of the cases upon the calendar shall be made, unless otherwise ordered, commencing at 10:00 A.M. on the opening day of a general term of court. The judge presiding, or under his direction, the clerk shall then call each case in the order appearing in the civil cases section, the criminal cases section, and the quasi-criminal cases section of the calendar. As each case is called the judge may hear and determine or set for later hearing and determination any motion of a party with respect to the case which may properly then be made. At the preliminary call with respect to the cases upon the calendar the court upon its own motion or upon motion of a party may determine or set for later hearing and determination whether or not a case is properly upon the calendar, whether or not a case is to be tried at the term, whether or not there are issues in a case to be tried by jury, the form of any question to be submitted to a jury, whether or not two or more civil cases are to be consolidated or issues therein jointly tried, whether or not claims or issues in a civil case are to be separately tried, whether or not the parties in a civil case or their attorneys shall be directed to appear for a pretrial conference and if so the time and place thereof, whether or not there should be a reference in accordance with R.C.P. Rule 53, the order in which the cases to be tried at the term shall be heard, the day upon which any case set for a day certain shall be called for trial and the court may make orders pursuant to R.C.P. Rules 14.03, 39.02, 40, 41.02 (1), 42, and 53.

7.03 Appearances in Criminal and Quasi-Criminal Cases. A defendant in a criminal case, a quasi-criminal case or a case charging a violation of an ordinance who is not in custody awaiting trial of the case, unless excused from so doing by the court, shall personally appear with his attorney at the preliminary call, shall thereafter personally appear at the daily court sessions during the term until the disposition of his case, shall not depart from the court without leave, and shall abide the orders and judgments of the court. The attorney for a defendant who is in custody in such a case, shall appear at the preliminary call.

7.04 Appearances, Representations, Motions, Objections, etc. in Civil Cases, at Preliminary Call. The parties and their attorneys will take notice that there are matters of importance pertaining to the cases upon the calendar which must be determined and settled by the court at the preliminary call. It shall be incumbent upon each party in any civil case properly upon the calendar to be represented by attorney, or to personally appear if he does not have an attorney, at the preliminary call. A party in a civil case who has knowledge or who has received notice or information that his case is or is likely to be upon the calendar will be considered to have waived any grounds he may have for a motion to strike the case from the calendar, and the case will be deemed properly upon the calendar, if he does not make such motion when the case is called at the preliminary call. A party in a case properly upon the calendar may be considered to have waived any grounds which he then knows or in the exercise of due diligence he should know for a motion to continue his case, if he does not make the motion when his case is called at the preliminary call. Unless otherwise provided by any rule of court, a party in a civil case to be tried at the term may be considered to have waived any grounds he has to make a motion permitted under R.C.P. Rule 12 which can properly be made at the preliminary call if he does not then make the motion when the case is called. A party in a case properly upon the calendar who has objections to the granting of a motion made at the preliminary call shall present his objections to the court when the motion is made. A party in a case properly upon the calendar who has objections to the action taken or an order made at the preliminary call pertaining to his case within the purview of Rule 7.02 shall present his objections to the court at the preliminary call. The failure of a party to present objections as required by this rule may be deemed a waiver thereof. A party in a case properly upon the calendar who fails to appear or to be represented by attorney at the preliminary call shall be presumed to have had immediate knowledge and notice of all action taken and orders made pertaining to his case at the preliminary call to the same extent as if he had appeared or had been represented by attorney thereat. Notwithstanding any waiver the court may in its discretion permit the making of motions and objections after the preliminary call to prevent manifest injustice, but a mere showing that a party failed to appear or to be represented by attorney at the preliminary call shall not constitute sufficient grounds to relieve a party from the effect of any waiver.

7.05 Term Trial Docket and Setting Cases Thereon. At the preliminary call, after determining the cases in which there are issues to be tried by jury and the cases in which there are issues to be tried by the court without a jury, the court may by order made in accordance with R.C.P. Rule 40 set the cases which are to be tried at the term and thereby constitute the "Term Trial Docket." The term trial docket may consist of two parts, one designated as the "Term Jury Trial Docket" in which will be entered the cases having issues to be tried by jury at the term, and the other designated as the "Term Nonjury Trial Docket" in which will be entered cases having issues to be tried at the term by the court without a jury. The court may fix the order in which

the cases upon a term trial docket not set for trial on a day certain will be called for trial and heard, and may fix the day upon which a case set for trial on a day certain will be called for trial. In the event the court does not provide for the order in which the cases to be tried at the term shall be called for trial and heard then, unless otherwise directed, the clerk as soon after the conclusion of the preliminary call of the calendar as practically may be shall list in the minutes of the court under the designation "Term Trial Docket" the cases to be tried at the term in the following order, the cases in each category being listed in the order they appear upon the calendar, to-wit: (1) criminal cases charging commission of a felony where defendant is in custody; (2) criminal cases charging commission of a misdemeanor where defendant is in custody; (3) criminal cases charging commission of a felony where defendant is not in custody; (4) criminal cases charging commission of a misdemeanor where defendant is not in custody; (5) cases charging a violation of an ordinance; (6) quasi-criminal cases; (7) civil cases not set for trial on a day certain in which there are issues to be tried by jury; (8) civil cases ordered by the court to be called for trial on a day certain in which there are issues to be tried by jury; (9) civil cases not set for trial on a day certain in which there are issues of fact to be tried by the court without a jury; (10) civil cases ordered by the court to be called for trial on a day certain in which there are issues of fact to be tried by the court without a jury; and (11) civil cases in which there are issues of law to be tried by the court. When issues in two or more cases are to be jointly tried, the cases shall assume in the order of listing the position of the one of such cases having the lowest calendar number. When the calendar number of cases entered on the term trial docket are bracketed, it shall indicate that such cases are consolidated or will be jointly tried.

7.06 Setting Trial for Day Certain. The request of a party to set a civil case triable by jury so that it will be called for trial on a day certain shall be denied unless a showing is made and the court is satisfied that extraordinary expenses or hardship will result to the party if the case is not so set.

7.07 Certain Motions After Preliminary Call. A motion made after the preliminary call to strike a case from the term trial docket, to reset for trial a case thereon, or to continue a case thereon for a cause which became known after the call will be granted only if it is made promptly, if due notice is given to the adverse party, and if there is sufficient showing of good cause for granting the motion.

7.08 Peremptory Call. The peremptory call, unless otherwise ordered, shall begin at 10:30 A.M. on the day the petit jurors report to begin service at the term and the case then remaining for trial appearing first in the order of listing of the cases upon the term trial docket will be peremptorily called for trial and heard. Thereafter as each case is disposed of by trial or otherwise, the case next in order of listing remaining for trial upon the term trial docket will be peremptorily called and heard. However, the order of the trial of cases upon the term trial docket which were not set to be called for trial on a day certain will be interrupted to permit the trial and hearing of any case which was set to be called for trial on a day certain and such a case will be called for trial, unless otherwise ordered, at 9:30 A.M. on the day designated but if the trial judge is then engaged in hearing a matter previously commenced he shall call the case for trial as soon thereafter as it may be reasonable to do so.

7.09 Anticipating Call of Case, etc. Each party and each attorney who will represent a party at the trial in any case upon the term trial docket shall keep himself informed of the progress of the business of the court and of the disposition of cases set ahead of his case upon the docket and the time when his case is likely to be reached to the end that he may appear and be ready for trial when his case is called. Upon written request the clerk shall mail a copy of the term trial docket, as soon after the opening day of the term as practically may be, to an attorney who has filed with the clerk a pleading or other writing showing him to be attorney of record for a party in such a case. With respect to any case which at the preliminary call was not set for trial on a day certain, such attorney may in a writing to be placed in the files of the case furnish a telephone number and request the clerk to make a station-to-station call to such number and give to the person answering the call a message specifying the time as near as may be foreseen when the case will be called for trial, at least eight hours in advance of such time. The attorney shall assume the responsibility for the transmission to him of such message by the person who receives the telephone call. The clerk shall, however, be relieved from any duty to give such a telephone message if he makes three calls to such number at reasonable intervals during ordinary business hours without obtaining a response.

RULE 8

ATTORNEYS — APPEARANCES OF RECORD, NOTICES TO, FILING OF WRITINGS BY, ETC.

8.01—Filing of Writings and Appearances by Attorneys. At or prior to the appearance of an attorney at any hearing in an action the attorney shall file with the clerk in accordance with R.C.P. Rule 5.04 all affidavits, notices and other papers designed to be used at the hearing and also any pleading he has theretofore served in the action.

8.02 Attorney of Record. An attorney representing a party in an action shall not be entitled to be recognized by the court or clerk as the attorney of record for such party unless he has filed with the clerk in the action a notice of appearance, a notice of substitution of attorney, a pleading for such party, or other writing which establishes him in the files of the action to be such attorney of record. Such attorney may not assume that he will be recognized by the court or clerk as an attorney of record in the action because of recitals or anything else appearing in or upon writings filed by an adverse party.

8.03 Notices by Court or Clerk to Attorney. An attorney for a party in an action shall not be entitled to receive any notice from the clerk pursuant to R.C.P. Rule 77.04 or any other notice in the action from the clerk or court unless he has filed with the clerk in the action a notice of appearance, a notice of substitution of attorney, a pleading for such party, or other writing which establishes him in the files of the action to be attorney of record therein for the party.

8.04 Nonresident Attorney. A person who is a resident of and is admitted to practice as an attorney at law in another state may be permitted, in the discretion of the court and subject to the provisions of M.S.A. Sec. 481.02 and the Rules of Civil Procedure to appear as attorney for a party and participate in a presentation, hearing or trial in an action or proceeding before the District Court of this district, provided: (1) he is associated in representing such party with an attorney at law admitted as such and residing in this state who appears as the attorney of record in the action or proceeding; (2) the resident attorney appears before the court at the presentation, hearing or trial and moves for an order granting permission to such nonresident attorney to so participate therein; and (3) the resident attorney remains present in court during the presentation, hearing or trial as the attorney of record in the action or proceeding.

RULE 9

DIVORCE ACTIONS.

9.01 Hearing of Default Action. A divorce action in default for want of any appearance by the defendant may with the consent of the court be brought on for trial and be heard at a special term of the court held 45 days or more after the commencement of the action.

9.02 Hearing of Non-default Action. A divorce action in which there has been an appearance by the defendant by interposing a pleading, entering into a stipulation or otherwise shall be brought on for trial and be heard upon its merits at a general term of the court except that such an action may upon stipulation of the parties and with the consent of the court be brought on for trial and be heard upon its merits in advance of the general term but not less than 45 days after the commencement of the action. A party bringing any such action on for trial in advance of the term shall give due notice of the time and place of the trial to the adverse party unless it appears from the files that such adverse party has knowledge thereof. The court will not recognize any stipulation by a party purporting to authorize the trial of an action or counterclaim for divorce at a time or place of which he does not have knowledge or notice, or agreeing to withdraw his opposition thereto or to make no defense thereagainst.

9.03 Record of Testimony. A stenographic record shall be made of the testimony and proceedings in the trial of a divorce action heard upon the merits whether or not it is in default. The court may direct the reporter to make and file with the clerk a

transcript of such record or part thereof and direct that a party shall pay the cost thereof.

RULE 10

MINOR'S ACTION.

10.01 Record of Hearing. A stenographic record shall be made of the testimony and proceedings at a hearing upon an application for the approval of the settlement or compromise of an action brought on behalf of a minor in accordance with M.S.A. Sec. 540.08.

10.02 Delivery of Property Upon Majority. When there is deposited with the clerk for a person then a minor, pursuant to an order of the court, property, securities or the evidence of a deposit of property, the clerk shall be deemed authorized, without any order of court, to deliver all of said property, securities or the evidence of a deposit of property, which may be in his custody to such person upon the attainment of his majority or to anyone he may designate in a writing executed after attaining his majority and filed with the clerk, if a certified copy of his birth certificate is filed with the clerk or if the court has determined the date of the birth of such person as appears from the files, provided, that if it appears from the files that such person is incompetent, then the clerk shall deliver the property, securities or evidence of the deposit of property only to the guardian of the estate of such person appointed by the Probate Court.

RULE 11

PATERNITY ACTION.

11.01 Notice of Hearing. The County Attorney shall cause due notice to be given to the Director of the Welfare Board of the county, to the mother of an illegitimate child and to the duly appointed guardian, if any, of such child, of any hearing held to fix the amounts a defendant determined to be the father of such child shall be required to pay in accordance with M.S.A. Sec. 257.23. If the mother of the child is a minor due notice of the hearing shall also be given to her duly appointed guardian but if she does not have such a guardian, then to a parent or other person entitled to her custody. If the defendant is a minor due notice of the hearing shall also be given to his duly appointed guardian but if he does not have such a guardian, then to a parent or other person entitled to his custody.

RULE 12

EXHIBITS; FILES AND RECORDS OF CLERK.

12.01 Custody of Exhibits. An exhibit admitted in evidence in a case shall thenceforth remain in the custody of the clerk, subject to the orders of the court until returned, delivered, or disposed of as hereinafter provided.

12.02 Return of Exhibits. Six months after the final termination of the case the clerk shall be authorized, without an order of court, to return to the attorney for the party who offered the same in evidence or to any person entitled thereto any exhibit admitted in evidence which cannot well be kept in the files of the case and the clerk may request such attorney or person to call at his office for the delivery of such exhibit. In lieu of making such request the clerk may forward the exhibit by mail or otherwise to such attorney or person. If the clerk makes such request and if the attorney or person so requested does not call within thirty days thereafter at the office of the clerk for the exhibit, the clerk shall be authorized to destroy the same if it is not a public record.

12.03 Redelivery of Exhibit to Clerk. Any exhibit admitted in evidence which by order of the court is returned to a party, or attorney, or any other person prior to the final termination of the case shall be deemed so returned upon the condition that if the court, the clerk, or the court reporter so requests, the exhibit shall be redelivered back to the custody of the clerk and be retained in his custody, subject to the orders of the court, but six months after the final termination of the case the provisions of Rule 12.02 shall apply.

12.04 Public Records. The court may deny admission in evidence as an exhibit in a case any original public record or document unless the officer or agency entitled to the custody thereof consents to such admission, if a certified copy of the record or document is admissible and would have as much probative force upon the issues of the case as the original.

12.05 Exhibits Offered but not Admitted. The court may order that an exhibit which was offered but not admitted in evidence be placed in the custody of the clerk and remain in such custody under the provisions of this rule the same as if it had been admitted. If an exhibit offered but not admitted in evidence is not in the custody of the clerk, the party who offered the same in evidence shall upon request of the clerk or court reporter deliver it to the clerk to remain in his custody under the provisions of this rule the same as if it had been admitted, when a transcript of the evidence is ordered, when a motion for a new trial is made, when an appeal is perfected, or whenever any other post-trial motion is made or proceeding taken wherein the offered exhibit may have a bearing on a question to be determined.

12.06 Certain Orders Made in Open Court. The clerk shall enter in the minutes of the court all orders made in open court except rulings made upon the admission of evidence. Excepting rulings made upon the admission of evidence and other orders made during a hearing or trial of which the court reporter has made a stenographic record, the clerk shall cause to be placed in the files of a case a memorandum referring to each order made in open court affecting the case. The memorandum shall, by a copy of the order as appears from the minutes of the court, an excerpt therefrom, or otherwise, indicate the action of the court affecting the case and shall also state the book and page of the minutes of the court where the order is recorded.

RULE 13

SESSIONS OF THE COURT.

13.01 Regular Hours of Sessions. The morning session of the court shall regularly convene at 9:30 A.M. and regularly recess at 12:00 o'clock noon and there shall ordinarily be a midmorning recess of approximately ten minutes. The afternoon session of the court shall regularly convene at 1:30 P.M. and regularly adjourn for the day at 4:30 P.M. and there shall ordinarily be a midafternoon recess of approximately fifteen minutes. Regular convening, recessing and adjourning hours may be varied by special directions of the court.

13.02 Opening of Sessions. Except for the opening of a term of court (the formality for which is prescribed by Paragraph 4 of Rules for Uniform Decorum in the District Courts of Minnesota) in convening court at the opening of a morning session and at the opening of an afternoon session, as the judge enters, the bailiff shall cause the persons in the court room to arise and stand while he says:

Hear Ye—Hear Ye!
This Court is now open.
Judge....., presiding.

There shall be no opening of court and the persons in the court room shall not be required to arise when the judge enters after a recess occurring during the morning or afternoon session.

TENTH JUDICIAL DISTRICT

RULE 1

SPECIAL TERMS. Special terms of court in the Tenth Judicial District of Minnesota for the hearing of issues of law, applications, motions, orders to show cause, default cases and summary matters except trial of issues of fact, are hereby fixed as follows:

(a) All terms of court at the County of Anoka shall be held in the court house in the City of Anoka, Minnesota, on the first, second and third Mondays of each month.

(b) All terms of court at the County of Washington shall be held at the court house in the city of Stillwater, Minnesota, on the second and fourth Mondays of each month.

(c) In the event any day set for holding any of the above terms is a legal holiday, all matters on the calendar shall be continued to the next special term.

(d) All terms of court at the County of Chisago shall be held at the court house in the Village of Center City on the fourth Mondays of February, June and August.

(e) All terms of court for the counties of Isanti, Kanabec, Pine, Sherburne and Wright shall be held in the Court House in the county seat of each of said counties respectively by appointment.

RULE 2

CALL OF CALENDAR. The call of the calendar shall be had at the hour of 10:00 o'clock a.m., on the opening day of each General and Special Term. Counsel shall advise the court as to the nature of the case, including motions to dismiss, strike, change the order on the calendar, and such other

motions as are proper to the determination of the issues to remain on the calendar for disposition.

In the event of any default, the case will be forthwith called for trial and the court will exercise the same powers as in the event of a default. Where no response is made by either party to a case, the case shall be stricken from the calendar. Appearance by Counsel under this rule will not be required in cases where pre-trial notice has been given by the Clerk of Court. Any action stricken from the calendar, shall not be reinstated on the calendar except by written order of the court filed in the office of the clerk.

RULE 3

PRE-TRIAL. Pursuant to Rule 16, Rules of Civil Procedure for the District Courts of Minnesota, a pre-trial calendar is hereby established. All jury actions, and such other actions as the Court may order, shall be placed on such calendar for consideration.

Pre-trial hearings of the cases on the pre-trial calendar shall be held on such days as the Court shall order.

In all causes on such calendar, the Clerk of Court shall mail to all parties and their attorneys, notice of hearing to be held at a time to be fixed by said clerk, not less than seven (7) nor more than thirty (30) days after the date of mailing. On the date and hour so fixed, only those attorneys (representing all the parties) who are familiar with the cause and are fully authorized to make binding stipulations therein will be permitted to appear, and such attorneys are required to appear together with their complete files. In the event of any default, the Court will exercise the same powers as in the event of a default.

RULE 4

DIVORCE ACTIONS. Default divorce actions may be placed on special term calendars for hearing sixty (60) days after the time to answer has expired and upon filing a note of issue with the clerk. Any divorce action may be advanced for trial in hardship and emergency cases upon order of the Court issued upon written application and sufficient proof.

RULE 5

PHOTOGRAPHS. The taking of photographs in the court rooms or within 40 feet of the entrance of any court room or of a prisoner in the jail or on his way to or from any session of court is forbidden.

RULE 6

EXHIBITS. The Clerk of Court may release all exhibits in his custody to the parties entitled thereto after final termination of an action without an order of the Court. It shall be the responsibility of the attorneys to obtain their exhibits after such termination, and if not so obtained, the responsibility of the Clerk of Court therefor shall cease at the expiration of sixty (60) days from the termination of the action.

RULE 7

EXAMINATION OF INJURED PERSON. In a personal injury case in which, prior to trial thereof, a Judge shall be of the opinion that an examination of the injured person and report thereon by an impartial medical expert or experts would be of material aid to the just determination of the case, he may, after consultation with Counsel for the respective parties and after giving Counsel a hearing, if such hearing be requested by either Counsel, order such examination and report. The order of appointment shall specify the conditions and scope of such examination, and the person or persons by whom it is to be made.

Copies of the report of the examining physician will be made available to the respective parties. If the case proceeds to trial after such examination and report, either party may call the examining physician or physicians to testify, or the trial Judge may, if he deems it desirable to do so, call the examining physician or physicians as a witness or witnesses for the court, subject to questioning by any party, but without compensation by any litigant. The payment of compensation of such medical expert or experts may be made a condition of the order directing the examination, and the amount of such compensation shall be fixed by the Judge ordering the examination, and unless otherwise provided for, payment shall be made by such party or parties and in such amount as the Judge in his discretion orders, in order to meet the factual situation.

RULE 8

QUESTIONNAIRES TO PROSPECTIVE JURORS. The Clerks of the District Court in Anoka and Washington Counties are directed to send out questionnaires to such prospective jurors and in such form as the Court shall direct, requesting of such prospective jurors, information regarding their qualifications and availability to serve as jurors and such other information as the Court may direct.

RULE 9

REGISTRATION OF LAND TITLE RULE.

Cases in which the Registrar may act without special order of the Court.

In the following cases, a special order of the Court need not be required unless it shall be requested by the Registrar or Examiner:

When the inchoate interest of a spouse of the registered owner has terminated by death, the Registrar may receive and enter as a memorial, a duly certified copy of the official death certificate and an affidavit of identity of such deceased spouse;

When the interest of a joint tenant has terminated by death, the Registrar may receive and enter as a memorial, a duly certified copy of the official death certificate and an affidavit of identity together with a tax waiver as authority for entry of a new certificate in favor of the survivor or survivors in joint tenancy;

When the registered owner has married since the issuance of the certificate, the Registrar may receive and enter as a memorial a duly certified copy of the certificate of marriage;

When the interest of a life tenant has been terminated by death, the Registrar may receive and enter a memorial of a duly certified copy of the official death certificate and an affidavit of identity of the decedent with the life tenant named in the certificate of title; and in such case the memorial of the certificate and affidavit shall be treated as evidence of the discharge of the life tenancy.

APPENDIX 8

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ALSO PRINTED AND INDEXED IN MINNESOTA REPORTS, VOLUME 254.

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RULES OF CIVIL PROCEDURE
for the
DISTRICT COURTS OF MINNESOTA

I. SCOPE OF RULES—ONE FORM OF ACTION

RULE 1
SCOPE OF RULES

These rules govern the procedure in the district courts of the State of Minnesota in all suits of a civil nature, with the exceptions stated in Rule 81. They shall be construed to secure the just, speedy, and inexpensive determination of every action.

RULE 2
ONE FORM OF ACTION

There shall be one form of action to be known as "civil action."

II. COMMENCEMENT OF THE ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

RULE 3
COMMENCEMENT OF THE ACTION; SERVICE OF THE COMPLAINT

3.01 Commencement of the Action.
A civil action is commenced against each defendant when the summons is served upon him or is delivered to the proper officer for such service; but such delivery shall be ineffectual unless within 60 days thereafter the summons be actually served on him or the first publication thereof be made.

3.02 Service of Complaint
A copy of the complaint shall be served with the summons, except when the service is by publication as provided in Rule 4.04.

RULE 4
PROCESS

4.01 Summons; Form
The summons shall state the name of the court and the names of the parties, be subscribed by the plaintiff or by his attorney, give an address within the state where the subscriber may be served in person and by mail, state the time within which these rules require the defendant to serve his answer, and notify him that if he fails to do so judgment by default will be rendered against him for the relief demanded in the complaint. (As amended March 3, 1959, effective July 1, 1959.)

4.02 By Whom Served.
The sheriff of the county in which the defendant is found may make service of summons and other process, and fees and mileage shall be allowed therefor.

Any person not a party to the action may make service of a summons.

4.03 Personal Service
Service of summons within the state shall be made as follows:

(a) **Upon an Individual.** Upon an individual by delivering a copy to him personally or by leaving a copy at his usual place of abode with some person of suitable age and discretion then residing therein.

If the individual has, pursuant to statute, consented to any other method of service or appointed an agent to receive service of summons, or if a statute designates a state official to receive service of summons, service may be made in the manner provided by such statute.

If the individual is confined to a state institution, by serving also the chief executive officer at the institution.

If the individual is an infant under the age of 14 years, by serving also his father or mother, and if he have neither within the state, then a resident guardian if he have one known to the plaintiff, and if he have none, then the person having control of such defendant, or with whom he resides, or by whom he is employed.

(b) **Upon Partnerships and Associations.** Upon a partnership or association which is subject to suit under a common name, by delivering a copy to a member or the managing agent of the partnership or association. If the partnership or association has, pursuant to statute, consented to any other method of service or appointed an agent to receive service of summons, or if a statute designates a state official to receive service of summons, service may be made in the manner provided by such statute.

(c) **Upon a Corporation.** Upon a domestic or foreign corporation, by delivering a copy to an officer or managing agent, or to any other agent authorized expressly or impliedly or designated by statute to receive service of summons, and if the agent is one authorized or designated under statute to receive service any statutory provision for the manner of such service shall be complied with. In the case of a transportation or express corporation, the summons may be served by delivering a copy to any ticket, freight, or soliciting agent found in the county in which the action is brought, and if such corporation is a foreign corporation and has no such agent in the county in which the plaintiff elects to bring the action, then upon any such agent of the corporation within the state.

(d) **Upon the State.** Upon the state by delivering a copy to the attorney general, a deputy attorney general or an assistant attorney general.

(e) **Upon Public Corporations.** Upon a municipal or other public corporation by delivering a copy
(1) To the chairman of the county board or to the county auditor of a defendant county.
(2) To the chief executive officer or to the clerk of a defendant city, village or borough.
(3) To the chairman of the town board or to the clerk of a defendant town.
(4) To any member of the board or other governing body of a defendant school district.
(5) To any member of the board or other governing body of a defendant public board or public body not hereinabove enumerated.

If service cannot be made as provided in this Rule 4.03 (e), the court may direct the manner of such service.

4.04 Service by Publication; Personal Service out of State
The summons may be served by three weeks' published notice in any of the cases enumerated hereafter when there shall have been filed with the court

the complaint and an affidavit of the plaintiff or his attorney stating the existence of one of such cases, and that he believes the defendant is not a resident of the state, or cannot be found therein, and either that he has mailed a copy of the summons to the defendant at his place of residence or that such residence is not known to him. The service of the summons shall be deemed complete 21 days after the first publication. Personal service of such summons without the state, proved by the affidavit of the person making the same sworn to before a person authorized to administer an oath, shall have the same effect as the published notice herein provided for.

Such service shall be sufficient to confer jurisdiction:

(1) When the defendant is a resident individual having departed from the state with intent to defraud his creditors, or to avoid service, or keeps himself concealed therein with like intent;

(2) When the plaintiff has acquired a lien upon property or credits within the state by attachment or garnishment, and

(a) The defendant is a resident individual who has departed from the state, or cannot be found therein, or

(b) The defendant is a nonresident individual, or a foreign corporation, partnership or association;

(3) When the action is for divorce or separate maintenance and the court shall have ordered that service be made by published notice;

(4) When the subject of the action is real or personal property within the state in or upon which the defendant has or claims a lien or interest, or the relief demanded consists wholly or partly in excluding him from any such interest or lien;

(5) When the action is to foreclose a mortgage or to enforce a lien on real estate. (As amended March 3, 1959, effective July 1, 1959.)

4.041 Additional Information to be Published

In all cases where publication of summons is made in an action in which the title to, or any interest in or lien upon, real property is involved or affected or is brought in question, the publication shall also contain a description of the real property involved, affected or brought in question thereby, and a statement of the object of the action. No other notice of the pendency of the action need be published. (As amended March 3, 1959, effective July 1, 1959.)

4.042 Service of the Complaint

If the defendant shall appear within ten days after the completion of service by publication, the plaintiff, within five days after such appearance, shall serve the complaint, by copy, on the defendant or his attorney. The defendant shall then have at least ten days in which to answer the same.

4.043 Service by Publication; Defendant May Defend; Restitution

If the summons be served by publication, and the defendant receives no actual notification of the action, he shall be permitted to defend upon application to the court before judgment and for sufficient cause; and, except in an action for divorce, the defendant, in like manner, may be permitted to defend at any time within one year after judgment, on such terms as may be just. If the defense be sustained, and any part of the judgment has been enforced, such restitution shall be made as the court may direct.

4.044 Nonresident Owner of Land Appointing an Agent

If a nonresident person or corporation owning or claiming any interest or lien in or upon lands in the state appoints an agent pursuant to § 557.01 service of summons in an action involving such real estate shall be made upon such agent or his principal in accordance with Rule 4.03, and service by publication shall not be made upon the principal.

4.05 Process Other Than Summons and Subpoena; Service of

Process other than summons and subpoena shall be served as directed by the court issuing the same.

4.06 Return

Service of summons and other process shall be proved by the certificate of the sheriff making it, by the affidavit of any other person making it, by the written admission of the party served, and, if served by publication, by the affidavit of the printer or his foreman or clerk. The proof of service in all cases other than by published notice shall state the time, place, and manner of service. Failure to make proof of service shall not affect the validity of the service.

4.07 Amendments

The court in its discretion and on such terms as it deems just may at any time allow any summons or other process or proof of service thereof to be amended, unless it clearly appears that substantial rights of the person against whom the process issued would be prejudiced thereby.

RULE 5

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

5.01 Service; When Required; Appearance

Every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties affected thereby, but no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4. A party appears when he serves or files any paper in the proceeding.

5.02 Service; How Made

Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party himself is ordered by the court. Written admission of service by the party or his attorney shall be sufficient proof of service. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of court. Delivery of a copy within this rule means: Handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing.

5.03 Service; Numerous Defendants

If the defendants are numerous, the court, upon motion or of its initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading with the court and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the courts directs.

5.04 Filing

(1) All pleadings, affidavits, bonds, and other papers in an action shall be filed with the clerk, unless otherwise provided by statute or by order of the court.

(2) All pleadings shall be so filed on or before the second day of the term at which the action is noticed for trial; otherwise the court may continue the action or strike it from the calendar.

(3) All affidavits, notices and other papers designed to be used in any cause shall be filed prior to the hearing of the cause unless otherwise directed by the court.

RULE 6

TIME

6.01 Computation

In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Sundays and holidays shall be excluded in the computation.

6.02 Enlargement

When by statute or by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may, at any time in its discretion, (1) with or without motion or notice order the period enlarged if re-

quest therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 4.043, 59.03, 59.05, and 60.02 except to the extent and under the conditions stated in them.

6.03 Unaffected by Expiration of Term

The continued existence or the expiration of a term of court does not affect or limit the period of time provided for the doing of any act or the taking of any proceeding, or affect the power of the court to do any act or take any proceeding in any action which has been pending before it.

6.04 For Motions; Affidavits

A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than five days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. A motion may be supported by papers on file by reference; supporting papers not on file shall be served with the motion; and, except as otherwise provided in Rule 59.04, opposing affidavits may be served not later than one day before the hearing, unless the court permits them to be served at some other time.

6.05 Additional Time After Service by Mail

Whenever a party has the right or is required to do some act or take some proceeding within a prescribed period after the service of a notice or other paper upon him, or whenever such service is required to be made a prescribed period before a specified event, and the notice or paper is served by mail, three days shall be added to the prescribed period. (As amended March 3, 1959, effective July 1, 1959.)

III. PLEADINGS AND MOTIONS

RULE 7

PLEADINGS ALLOWED; FORM OF MOTIONS

7.01 Pleadings

There shall be a complaint and an answer (including such pleadings in a third-party proceeding when a third-party claim is asserted); a reply to a counterclaim denominated as such; and an answer to a cross-claim if the answer contains a cross-claim. No other pleading shall be allowed except that the court may order a reply to an answer. Demurrers, pleas and exceptions for insufficiency of a pleading shall not be used. (As amended March 3, 1959, effective July 1, 1959.)

7.02 Motion and Other Papers

(1) An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

RULE 8

GENERAL RULES OF PLEADING

8.01 Claims for Relief

A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief and (2) a demand for judgment for the relief to which he deems himself entitled, and if a recovery of money be demanded the amount shall be stated. Relief in the alternative or of several different types may be demanded.

8.02 Defenses; Form of Denials

A party shall state in short and plain terms his defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If he is without knowledge or information sufficient to form a belief as to the truth of an averment, he shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, he may make his denials as specific denials of designated averments or paragraphs, or he may generally deny all the averments except such designated averments or paragraphs as he expressly admits; but, when he does so intend to controvert all its averments, he may do so by general denial subject to the obligations set forth in Rule 11.

8.03 Affirmative Defenses

In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

8.04 Effect of Failure to Deny

Averments in a pleading to which a responsive pleading is required, other than those as to amount of damage, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

8.05 Pleading to be Concise and Direct; Consistency

(1) *Each averment of a pleading shall be simple,* concise, and direct. No technical forms of pleading or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in Rule 11.

8.06 Construction of Pleadings

All pleadings shall be so construed as to do substantial justice.

RULE 9

PLEADING SPECIAL MATTERS

9.01 Capacity

It is not necessary to aver the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of a partnership or an organized association of persons that is made a party. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, he shall do so by specific negative averment, which shall include such supporting particulars as are peculiarly within the pleader's knowledge.

9.02 Fraud, Mistake, Condition of Mind

In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

9.03 Conditions Precedent

In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity.

9.04 Official Document or Act.

In pleading an official document or official act, it is sufficient to aver that the document was issued or the act done in compliance with law; and in pleading any ordinance of a city, village, or borough or any special or local statute or any right derived from either, it is sufficient to refer to the ordinance or statute by its title and the date of its approval.

9.05 Judgment

In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it.

9.06 Time and Place

For the purpose of testing the sufficiency of a pleading, averments of time and place are material and shall be considered like all other averments of material matter.

9.07 Special Damages
When items of special damage are claimed, they shall be specifically stated.
9.08 Unknown Party; How Designated
When a party is ignorant of the name of an opposing party and so alleges in his pleading, the opposing party may be designated by any name, and when his true name is discovered the process and all pleadings and proceedings in the action may be amended by substituting the true name.

RULE 10
FORM OF PLEADINGS

10.01 Caption; Names of Parties
Every pleading shall have a caption setting forth the name of the court and the county in which the action is brought, the title of the action, and a designation as in Rule 7. In the complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.
10.02 Paragraph; Separate Statements
All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.
10.03 Adoption by Reference; Exhibits
Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part of the statement of claim or defense set forth in the pleading.

RULE 11
SIGNING OF PLEADINGS

Every pleading of a party represented by an attorney shall be personally signed by at least one attorney of record in his individual name and shall state his address. A party who is not represented by an attorney shall personally sign his pleading and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certification by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken, as provided in Rule 12.06, as sham and false and the action may proceed as though the pleading had not been served. An attorney may be subjected to appropriate disciplinary action for a wilful violation of this rule or for the insertion of scandalous or indecent matter in a pleading.

RULE 12
DEFENSES AND OBJECTIONS; WHEN AND HOW PRESENTED; BY PLEADING OR MOTION; MOTION FOR JUDGMENT ON PLEADINGS

12.01 When Presented
Defendant shall serve his answer within 20 days after service of the summons upon him unless the court directs otherwise pursuant to Rule 4.043. A party served with a pleading stating a cross-claim against him shall serve an answer thereto within 20 days after the service upon him. The plaintiff shall serve his reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs. The service of a motion permitted under this rule alters these periods of time as follows unless a different time is fixed by order of the court: (1) If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after service of notice of the court's action; (2) if the court grants a motion for a more definite statement, the responsive pleading shall be served within 10 days after the service of the more definite statement.
12.02 How Presented
Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) Lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; (5) failure to state a claim upon which relief can be granted; and (6) failure to join an indispensable party. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense that the pleading fails to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.
12.03 Motion for Judgment on the Pleadings
After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on such motion, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided for in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.
12.04 Preliminary Hearing
The defenses and relief enumerated in Rules 12.02 and 12.03, whether made in a pleading or by motion, shall be heard and determined before trial on application of any party unless the court orders that the hearing and determination thereof be deferred until the trial.
12.05 Motion for More Definite Statement, for Paragraphing and for Separate Statement
If a pleading to which a responsive pleading is permitted violates the provisions of Rule 10.02, or is so vague and ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move for a compliance with Rule 10.02 or for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after service of notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.
12.06 Motion to Strike
Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him, or upon the court's own initiative at any time, the court may order any pleading not in compliance with Rule 11 stricken as sham and false, or may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent or scandalous matter.
12.07 Consolidation of Defenses
A party who makes a motion under this rule may join with it the other motions herein provided for and then available to him. If a party makes a motion under this rule and does not include therein all defenses and objections then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on any of the defenses or objections so omitted, except as provided in Rule 12.08.
12.08 Waiver of Defenses
A party waives all defenses and objections which he does not present either by motion as hereinbefore provided or, if he has made no motion, in his answer or reply, except (1) that the defense of failure to state a claim upon which relief can be granted, the defense of failure to join an indispensable party, and the objection of failure to state a legal defense to a claim may also be made by a later pleading, if one is permitted, or by motion for judgment on the pleadings or at the trial on the merits and except (2) that, whenever it appears by suggestion of parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action. If made at the trial, the objections or defenses shall be disposed of as provided in Rule 15.02 in the light of any evidence that may have been received.

RULE 13

COUNTERCLAIM AND CROSS-CLAIM

13.01 Compulsory Counterclaims

A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction, except that such a claim need not be so stated if at the time the action was commenced the claim was the subject of another pending action.

13.02 Permissive Counterclaims

A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction that is the subject matter of the opposing party's claim.

13.03 Counterclaim Exceeding Opposing Claim

A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

13.04 Counterclaim Against the State of Minnesota

These rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims or to claim credits against the State of Minnesota or an officer or agency thereof.

13.05 Counterclaim Maturing or Acquired After Pleading

A claim which either matured or was acquired by the pleader after serving his pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

13.06 Omitted Counterclaim

When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, he may by leave of court set up the counterclaim by amendment.

13.07 Cross-Claim Against Co-Party

A pleading may state as a cross-claim any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

13.08 Additional Parties May be Brought In

When the presence of parties other than those to the original action is required for the granting of complete relief in the determination of a counterclaim or cross-claim, the court shall order them to be brought in as defendants as provided in these rules.

13.09 Separate Trials; Separate Judgment

If the court orders separate trials as provided in Rule 42.02, judgment on a counterclaim or cross-claim may be rendered in accordance with the terms of Rule 54.02 even if the claims of the opposing party have been dismissed or otherwise disposed of.

RULE 14

THIRD-PARTY PRACTICE

14.01 When Defendant May Bring in Third Party

Within 45 days after service of the summons upon him, and thereafter by leave of court granted on motion upon notice to all parties to the action, a defendant as a third-party plaintiff may serve a summons and complaint, together with a copy of plaintiff's complaint, upon a person, whether or not he is a party to the action, who is or may be liable to him for all or part of the plaintiff's claim against him and after such service shall forthwith serve notice thereof upon all other parties to the action. Copies of third-party pleadings shall be furnished by the pleader to any other party to the action within 5 days after request therefor. The person so served, hereinafter called the third-party defendant, shall make his defenses to the third-party plaintiff's claim as provided in Rule 12 and his counterclaims against the third-party plaintiff and cross-claims against other third-party defendants as provided in Rule 13. The third-party defendant may assert against the plaintiff any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third-party defendant thereupon shall assert his defenses as provided in Rule 12 and his counterclaims and cross-claims as provided in Rule 13. A third-party defendant may proceed under this rule against any person who is or may be liable to him for all or part of the claim made in the action against the third-party defendant. (As amended March 3, 1959, effective July 1, 1959.)

14.02 When Plaintiff May Bring in Third Party

When a counterclaim is asserted against a plaintiff, he may cause a third party to be brought in under circumstances which under Rule 14.01 would entitle defendant to do so.

14.03 Orders for Protection of Parties and Prevention of Delay

The court may make such orders as will prevent a party from being embarrassed or put to undue expense, or prevent delay of the trial or other proceedings, by the assertion of a third-party claim, and may dismiss the third-party claim, order separate trials, or make other orders to prevent delay or prejudice. Unless otherwise specified in the order, a dismissal under this rule is without prejudice. (Added March 3, 1959, effective July 1, 1959.)

RULE 15

AMENDED AND SUPPLEMENTAL PLEADINGS

15.01 Amendments

A party may amend his pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he may so amend it at any time within 20 days after it is served. Otherwise a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be longer, unless the court otherwise orders.

15.02 Amendments to Conform to the Evidence

When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

15.03 Relation Back of Amendments

Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading.

15.04 Supplemental Pleadings

Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting fourth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented, whether or not the original pleading is defective in its statement of a claim for relief or of a defense. If the court deems it advisable that the adverse party plead thereto, it shall so order, specifying the time therefor. (As amended March 3, 1959, effective July 1, 1959.)

RULE 16

PRE-TRIAL PROCEDURE; FORMULATING ISSUE

In any action, the court may in its discretion direct the attorneys for the parties to appear before it for a conference to consider:

(1) The simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
(4) The limitation of the number of expert witnesses;
(5) The advisability of a preliminary reference of issues to a referee;
(6) Such other matters as may aid in the disposition of the action.

The court shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice. The court in its discretion may establish by rule a pre-trial calendar on which actions may be placed for consideration as above provided and may either confine the calendar to jury actions or to nonjury actions or extend it to all actions.

IV. PARTIES

RULE 17
PARTIES PLAINTIFF AND DEFENDANT; CAPACITY

17.01 Real Party in Interest

Every action shall be prosecuted in the name of the real party in interest; but an executor, administrator, guardian, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute, may sue in his own name without joining with him the party for whose benefit the action is brought.

17.02 Infants or Incompetent Persons

Whenever a party to an action is an infant or is incompetent and has a representative duly appointed under the laws of this state or the laws of a foreign state or country, the representative may sue or defend on behalf of such party. A party who is an infant or is incompetent and is not so represented shall be represented by a guardian ad litem appointed by the court in which the action is pending or is to be brought. The guardian ad litem shall be a resident of this state, shall file his consent and oath with the clerk, and shall give such bond as the court may require.

Any person, including an infant party over the age of 14 years and under no other legal disability, may apply under oath for the appointment of a guardian ad litem. The application of the party or of his spouse or his parent or testamentary or other guardian shall have priority over other applications. If no such appointment is made in behalf of a defendant party before answer or default, the adverse party or his attorney may apply for such appointment, and in such case the court shall allow the guardian ad litem a reasonable time to respond to the complaint.

The application for appointment shall show (1) the name, age and address of the party, (2) if he be a minor, the names and addresses of his parents, and, if his parents be dead or have abandoned him, the name and address of his custodian or his testamentary or other guardian, if any, (3) the name and address of his spouse, if any, and (4) the name, age and address and occupation of the person whose appointment is sought.

If the appointment is applied for by the party or by his spouse, parent, custodian, or testamentary or other guardian, the court may hear the application with or without notice. In all other cases written notice of the hearing on the application shall be given at such time as the court shall prescribe, and shall be served upon the party, his spouse, parent, custodian and testamentary or other guardian, if any, and, if he be an inmate of a public institution, the chief executive officer thereof. If the party be a non-resident, or if after diligent search he cannot be found within the state, notice shall be given to such persons and in such manner as the court may direct. (As amended March 3, 1959, effective July 1, 1959.)

RULE 18
JOINDER OF CLAIMS AND REMEDIES

18.01 Joinder of Claims

The plaintiff in his complaint or in a reply setting forth a counterclaim and the defendant in an answer setting forth a counterclaim may join either as independent or as alternative claims as many claims either legal or equitable or both as he may have against an opposing party provided they do not require separate places of trial. There may be a like joinder of claims when there are multiple parties if the requirements of Rules 19, 20, and 22 are satisfied. There may be a like joinder of cross-claims or third-party claims if the requirements of Rules 13 and 14, respectively, are satisfied.

18.02 Joinder of Remedies; Fraudulent Conveyances

Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties. In particular, a plaintiff may state a claim for money and a claim to have set aside a conveyance fraudulent as to him, without first having obtained a judgment establishing the claim for money.

RULE 19
NECESSARY JOINDER OF PARTIES

19.01 Necessary Joinder

Subject to the provisions of Rules 19.02 and 23, persons having a joint interest which is not also a several interest shall be made parties and be joined on the same side as plaintiffs or defendants. When a person who should join as a plaintiff refuses to do so, he may be made a defendant.

19.02 Effect of Failure to Join

When persons who are not indispensable, but who ought to be parties if complete relief is to be accorded between those already parties, have not been made parties and are subject to the jurisdiction of the court as to service of process, the court shall order them summoned to appear in the action. The court in its discretion may proceed in the action without making such persons parties if its jurisdiction over them can be acquired only by their consent or voluntary appearance, but the judgment rendered therein does not affect the rights or liabilities of absent persons.

19.03 Names of Omitted Persons and Reasons for Nonjoinder to be Pleaded

In any pleading in which relief is asked, the pleader shall set forth the names, if known to him, of persons who ought to be parties if complete relief is to be accorded between those already parties, but who are not joined, and shall state why they are omitted.

RULE 20
PERMISSIVE JOINDER OF PARTIES

20.01 Permissive Joinder

Persons may join in one action as plaintiffs if they assert jointly, severally, or in the alternative any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of fact or law common to all of them will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

20.02 Separate Trials

The court may make such order as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delay or prejudice.

RULE 21
MISJOINDER AND NONJOINDER OF PARTIES

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on a motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

RULE 22
INTERPLEADER

Persons having claims against the plaintiff may be joined as defendants and required to interplead, in an action brought for that purpose, when their claims are such that the plaintiff is or may be exposed to multiple liability. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim or counterclaim. If such a defendant

admits he is subject to liability, he may, upon paying the amount claimed or delivering the property claimed or its value into court or to such person as the court may direct, move for an order to substitute the claimants other than the plaintiff as defendants in his stead. On compliance with the terms of such order, the defendant shall be discharged and the action shall proceed against the substituted defendants. It is not ground for objection to such joinder or to such motion that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical with but are adverse to and independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any or all of the claimants. The provisions of this rule do not restrict the joinder of parties permitted in Rule 20.

RULE 23
CLASS ACTIONS

23.01 Representation

If persons constituting a class are so numerous as to make it impracticable to bring them all before the court, such of them, one or more, as will fairly insure the adequate representation of all may, on behalf of all, sue or be sued, when the character of the right sought to be enforced for or against the class is

(1) joint, or common, or secondary in the sense that the owner of a primary right refuses to enforce that right and a member of the class thereby becomes entitled to enforce it;
(2) several, and the object of the action is the adjudication of claims which do or may affect specific property involved in the action; or
(3) several, and there is a common question of law or fact affecting the several rights and a common relief is sought.

23.02 Secondary Action by Shareholders

In an action brought to enforce a secondary right on the part of one or more shareholders in a corporation or members in an unincorporated association because the corporation or association refuses to enforce rights which may properly be asserted by it, the complaint shall set forth with particularity the efforts of the plaintiff to secure from the managing directors or trustees and, if necessary, from the shareholders or members such action as he desires, and the reasons for his failure to obtain such action or the reason for not making such effort.

23.03 Dismissal or Compromise

A class action shall not be dismissed or compromised without the approval of the court. If the right sought to be enforced is one defined in Rule 23.01(1), notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs. If the right is one defined in Rule 23.01(2) or (3), notice shall be given only if the court requires it.

23.04 Orders to Insure Adequate Representation

The court at any stage of an action under Rule 23.01 may impose such terms as shall fairly and adequately protect the interests of the persons on whose behalf the action is brought or defended. It may order that notice be given, in such manner as it may direct, of the pendency of the action, of a proposed settlement, of entry of judgment or of any other proceedings in the action, including notice to the absent persons that they may come in and present claims and defenses if they so desire. Whenever the representation appears to the court inadequate fairly to protect the interests of absent persons who may be bound by the judgment, the court may, at any time prior to judgment, order an amendment of pleadings by eliminating therefrom all reference to representation of the absent persons, and order the entry of judgment in such form as to affect only the parties to the action and those adequately represented. (Added March 3, 1959, effective July 1, 1959.)

RULE 24
INTERVENTION

24.01 Intervention of Right

Upon timely application anyone shall be permitted to intervene in an action (1) when the applicant has such an interest in the matter in litigation that he may either gain or lose by the direct legal effect of the judgment therein whether or not he were a party to the action; or (2) when the representation of the applicant's interest by existing parties is or may be inadequate and the applicant is or may be bound by a judgment in the action; or (3) when the applicant is so situated as to be adversely affected by a distribution or other disposition of property which is in the custody or subject to the control or disposition of the court or an officer thereof.

24.02 Permissive Intervention

Upon timely application anyone may be permitted to intervene in an action when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

24.03 Procedure

A person desiring to intervene shall serve a motion to intervene upon all parties affected thereby. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

24.04 Notice to Attorney General

When the constitutionality of an act of the legislature is drawn in question in any action to which the state or an officer, agency or employe of the state is not a party, the party asserting the unconstitutionality of the act shall notify the attorney general thereof within such time as to afford him an opportunity to intervene.

RULE 25
SUBSTITUTION OF PARTIES

25.01 Death

(1) If a party dies and the claim is not extinguished or barred, the court may order substitution of the proper parties. The motion for substitution may be made by the successors or representatives of the deceased party or by any party and, together with the notice of hearing, shall be served on the parties as provided in Rule 5 and upon persons not parties in the manner provided in Rule 4 for the service of process.

(2) In the event of the death of one or more of the plaintiffs or of one or more of the defendants in an action in which the right sought to be enforced survives only to the surviving plaintiffs or only against the surviving defendants, the action does not abate. The death shall be indicated upon the record and the action shall proceed in favor of or against the surviving parties.

25.02 Incompetency

If a party becomes incompetent, the action shall not abate because of the disability, and the court upon motion served as provided in Rule 25.01 may allow it to be continued by or against his representative.

25.03 Transfer of Interest

In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. Service of this motion shall be made as provided in Rule 25.01.

25.04 Public Officers; Death or Separation from Office

When any public officer is a party to an action and during its pendency dies, resigns, or otherwise ceases to hold office, the action may be continued and maintained by or against his successor if it is satisfactorily shown to the court that there is a substantial need for so continuing and maintaining it. Substitution pursuant to this rule may be made when it is shown by supplemental pleading that the successor of any officer adopts or continues or threatens to adopt or continue the action of his predecessor. Before a substitution is made, the party or officer to be affected, unless expressly assenting thereto, shall be given reasonable notice of the application therefor and accorded an opportunity to object. (As amended March 3, 1959, effective July 1, 1959.)

V. DEPOSITIONS AND DISCOVERY

RULE 26
DEPOSITIONS PENDING ACTION

26.01 When Deposition May be Taken

Any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the action or

for both purposes. After commencement of the action, the deposition may be taken without leave of court, except that leave, granted with or without notice, must be obtained if notice of the taking is served by the plaintiff within 20 days after commencement of the action. The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45. Depositions shall be taken only in accordance with these rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

26.02 Scope of Examination

Unless otherwise ordered by the court as provided by Rule 30.02 or 30.04, the witness may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the examining party or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection that the testimony will be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence. The production or inspection of any writing obtained or prepared by the adverse party, his attorney, surety, indemnitor, or agent in anticipation of litigation or in preparation for trial, or of any writing that reflects an attorney's mental impressions, conclusions, opinions, or legal theories, or, except as provided in Rule 35, the conclusions of an expert, shall not be required.

26.03 Examination and Cross-Examination

Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of Rule 43.02.

26.04 Use of Depositions

At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness on material matters only.

(2) The deposition of a party or of any one who at the time of taking the deposition was a managing agent or employe of the party or an officer, director, managing agent or employe of the state or any political subdivision thereof or of a public or private corporation, partnership, or association which is a party may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (a) that the witness is dead; or (b) that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the state, unless it appears that the absence of the witness was procured by the party offering the deposition; or (c) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (d) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (e), upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witness orally in open court, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts.

Substitution of parties does not affect the right to use depositions previously taken; and, when an action in any court of the United States or of any state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

26.05 Objections to Admissibility

Subject to the provisions of Rule 32.03, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of evidence if the witness were then present and testifying.

26.06 Effect of Taking or Using Depositions

A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in Rule 26.04(2). At the trial or hearing, any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

26.07 Depositions in Arbitration

The deposition of a witness whose testimony is wanted for use as evidence in a controversy submitted to arbitrators may be taken if the witness is at a greater distance than 100 miles from the place of hearing, or is about to go out of the state, not intending to return in time for the hearing, or is unable to attend or testify because of age, sickness, or infirmity. The deposition shall be taken in accordance with Rules 26.04(4), 26.05, 27.01, 27.03, 27.05, 27.06, 28, 29, and 32. Rules 37.01 and 37.02 shall likewise apply to the taking of such depositions insofar as the provisions thereof are applicable. The attendance of witnesses may be compelled by use of subpoena as provided in Rule 45. By leave of court, the deposition of a person confined in prison may be taken on such terms as the court prescribes.

RULE 27

DEPOSITIONS BEFORE ACTION OR PENDING APPEAL

27.01 Before Action

(1) **Petition.** A person who desires to perpetuate his own testimony or that of another person regarding any matter may file a verified petition in the district court of the county of the residence of an expected adverse party. The petition shall be entitled in the name of the petitioner and shall show (a) that the petitioner expects to be a party to an action but is presently unable to bring it or cause it to be brought, (b) the subject matter of the expected action and his interest therein, (c) the facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it, (d) the names or a description of the persons he expects will be adverse parties and their addresses so far as known, and (e) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each, and shall ask for an order authorizing the petitioner to take the deposition of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

(2) **Notice and Service.** The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least 20 days before the date of hearing the notice shall be served either within or without the state in the manner provided in Rule 4.03 for service of summons; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not served in the manner provided in Rule 4.03, an attorney who shall represent them, and, in case they are not otherwise represented, shall cross-examine the deponent. If any expected adverse party is a minor or incompetent, the provisions of Rule 17.02 apply.

(3) **Order and Examination.** If the court is satisfied that the perpetuation of testimony may prevent a failure or delay of justice, it shall make an order designating and describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The deposition may then be taken in accordance with these rules; and the court may make orders of the character provided for by Rules 34 and 35. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which the

action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.

(4) **Use of Deposition.** If a deposition to perpetuate testimony is taken under these rules or if, although not so taken, it would be admissible in evidence in the courts of the state in which it is taken, it may be used in any action involving the same subject matter subsequently brought in this state, in accordance with the provisions of Rule 26.04.

27.02 Pending Appeal

If an appeal has been taken from a judgment of a district court, or before the taking of an appeal if the time therefor has not expired, the district court in which the judgment was rendered may allow the taking of the deposition of witnesses to perpetuate their testimony for use in the event of further proceedings in the district court. In such case, the party who desires to perpetuate the testimony may make a motion in the district court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the district court. The motion shall show (1) the names and addresses of persons to be examined and the substance of the testimony which he expects to elicit from each, and (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for by Rules 34 and 35, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the district court.

27.03 Perpetuation by Action

This rule does not limit the power of the court to entertain an action to perpetuate testimony.

RULE 28

PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN

28.01 Within the United States

Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, or before a person appointed by the court in which the action is pending. A person so appointed has power to administer oaths and take testimony.

28.02 In Foreign Countries

In a foreign state or country depositions shall be taken (1) on notice before a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or (2) before such person or officer as may be appointed by commission or under letters rogatory. A commission or letters rogatory shall be issued only when necessary or convenient, on application and notice, and on such terms and with such directions as are just and appropriate. Officers may be designated in notices or commissions either by name or descriptive title and letters rogatory may be addressed "To the Appropriate Judicial Authority in (here name the country)."

28.03 Disqualification for Interest

No deposition shall be taken before a person who is a relative or employe or attorney or counsel of any of the parties, or is a relative or employe of such attorney or counsel, or is financially interested in the action.

RULE 29

STIPULATION REGARDING THE TAKING OF DEPOSITIONS

If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner, and when so taken may be used like other depositions.

RULE 30

DEPOSITIONS UPON ORAL EXAMINATION

30.01 Notice of Examination; Time and Place

A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of any party upon whom the notice is served, the court may for cause enlarge or shorten the time.

30.02 Orders for the Protection of Parties and Witnesses

After notice is served for taking a deposition by oral examination, upon motion seasonably made by any party or by the person to be examined and upon notice and for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated time or place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters may not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that the deposition be sealed and thereafter opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, expense, embarrassment or oppression. The power of the court under this rule shall be exercised with liberality toward the accomplishment of its purpose to protect parties and witnesses. (As amended March 3, 1959, effective July 1, 1959.)

30.03 Record of Examination; Oath; Objections

The officer before whom the deposition is to be taken shall put the witness on oath and shall, personally, or by some one acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

30.04 Motion to Terminate or Limit Examination

At any time during the taking of the deposition, on motion of any party or of the witness and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the witness or party, the court in which the action is pending or the court in the district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 30.02. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or witness, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing such order, the court may impose upon either party or upon the witness the requirement to pay such costs or expenses as the court may deem reasonable.

30.05 Submission to Witness; Changes; Signing

When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness, or the fact of the refusal to sign, together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress under Rule 32.04 the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

30.06 Certification and Filing by Officer; Notice of Filing

(1) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then place the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly deliver or mail it to the clerk of the court in which the action is pending, or, if the deposition was taken under Rule 26.07, to an arbitrator.

(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the witness.

(3) The party taking the deposition shall give prompt notice of its filing to all other parties. (As amended March 3, 1959, effective July 1, 1959.)

30.07 Failure to Attend or to Serve Subpoena; Expenses

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him and his attorney in so attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him, and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him and his attorney in so attending, including reasonable attorney's fees.

RULE 31

DEPOSITIONS OF WITNESSES UPON WRITTEN INTERROGATORIES

31.01 Serving Interrogatories; Notice

A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within 10 days thereafter, a party so served may serve cross interrogatories upon the party proposing to take the deposition. Within 5 days thereafter, the latter may serve redirect interrogatories upon a party who has served cross interrogatories. Within 3 days after being served with redirect interrogatories, a party may serve recross interrogatories upon the party proposing to take the deposition.

31.02 Officers to Take Responses and Prepare Record

A copy of the notice and copies of all interrogatories served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rules 30.03, 30.05, and 30.06, to take the testimony of the witness in response to the interrogatories and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the interrogatories received by him.

31.03 Notice of Filing

When the deposition is filed, the party taking it shall promptly give notice thereof to all other parties.

31.04 Orders for the Protection of Parties and Witnesses

After the service of interrogatories and prior to the taking of the testimony of the witnesses, the court in which the action is pending, on motion promptly made by a party or witnesses, upon notice and good cause shown, may make any order specified in Rule 30 which is appropriate and just or an order that the deposition shall not be taken before the officer designated in the notice or that it shall not be taken except upon oral examination.

RULE 32

EFFECT OF ERRORS AND IRREGULARITIES IN DEPOSITIONS

32.01 As to Notice

All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

32.02 As to Disqualification of Officer

Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

32.03 As to Taking of Deposition

(1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of deposition.

(3) Objections to the form of written interrogatories submitted under Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other interrogatories and within 3 days after service of the last interrogatories authorized.

32.04 As to Completion and Return of Deposition

Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under Rules 30 and 31 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

RULE 33

INTERROGATORIES TO PARTIES

Any party may serve upon any adverse party written interrogatories to be answered by the party served or, if the party served is the state or any political subdivision thereof or a public or private corporation or a partnership or association, by any officer or managing agent, who shall furnish such information as is available to the party. Interrogatories may be served after commencement of the action and without leave of court, except that, if service is made by the plaintiff within 10 days after such commencement, leave of court granted with or without notice must be first obtained. The interrogatories shall be answered separately and fully in writing under oath. The answers shall be signed by the person making them; and the party upon whom the interrogatories have been served shall serve a copy of the answers on the party submitting the interrogatories within 15 days after the service of the interrogatories, unless the court, on motion and notice and for good cause shown enlarges or shortens the time. Within 10 days after service of interrogatories a party may serve written objections thereto, together with a notice of hearing the objections at the earliest practicable time. Answers to interrogatories to which objection is made shall be deferred until the objections are determined.

Interrogatories may relate to any matters which can be inquired into under Rule 26.02, and the answers may be used to the same extent as provided in Rule 26.04 for the use of the deposition of a party. Interrogatories may be served after a deposition has been taken, and a deposition may be sought after interrogatories have been answered, but the court, on motion of the witnesses or the party interrogated, may make such protective order as justice may require. The number of interrogatories or of sets of interrogatories to be served is not limited except as justice requires to protect the party from annoyance, expense, embarrassment, or oppression. The provisions of Rule 30.02 are applicable for the protection of the party from whom answers to interrogatories are sought under this rule.

RULE 34

DISCOVERY AND PRODUCTION OF DOCUMENTS AND THINGS FOR INSPECTION, COPYING, OR PHOTOGRAPHING

Upon motion of any party showing good cause therefor and upon notice to all other parties, and subject to the provisions of Rule 30.02, the court in which an action is pending may (1) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by

Rule 26.02 and which are in his possession, custody, or control; or (2) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon within the scope of the examination permitted by Rule 26.02. The order shall specify the time, place, and manner of making the inspection and taking the copies and photographs and may prescribe such terms and conditions as are just.

RULE 35
PHYSICAL, MENTAL AND BLOOD EXAMINATION OF PERSONS

35.01 Order of Examinations

In an action in which the mental or physical condition or the blood relationship of a party, or of an agent of a party, or of a person under control of a party, is in controversy, the court in which the action is pending may order the party to submit to, or produce such agent or person for, a mental or physical or blood examination by a physician. The order may be made only on motion for good cause shown and upon notice to the party or person to be examined and to all other parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is made. (As amended March 3, 1959, effective July 1, 1959.)

35.02 Report of Findings

(1) If requested by the party against whom an order is made under Rule 35.01 or by the person examined, the party causing the examination to be made shall deliver to him a copy of a detailed written report of the examining physician setting out his findings and conclusions, together with like reports of all earlier examinations of the same condition. After such request and delivery, the party causing the examination to be made shall be entitled, upon request, to receive from the party or person examined a like report of any examination, previously or thereafter made, of the same mental or physical or blood condition. If the party or person examined refuses to deliver such report, the court, on motion and notice, may make an order requiring delivery on such terms as are just, and, if a physician fails or refuses to make such a report, the court may exclude his testimony if offered at the trial.

(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the adverse party waives any privilege he may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him or the person under his control in respect of the same mental or physical or blood condition. (As amended March 3, 1959, effective July 1, 1959.)

RULE 36
ADMISSION OF FACTS AND OF GENUINENESS OF DOCUMENTS

36.01 Request for Admission

After commencement of an action, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matters of fact set forth in the request. If a plaintiff desires to serve a request within 10 days after commencement of the action, leave of court, granted with or without notice, must be obtained. Copies of the documents shall be served with the request, unless copies have already been furnished. Each of the matters of which an admission is requested shall be deemed admitted unless within a period designated in the request not less than 10 days after service thereof, or within such shorter or longer time as the court may allow on motion and notice, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part, together with a notice of hearing the objections at the earliest practicable time. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission, and, when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder.

36.02 Effect of Admission

Any admission made by a party pursuant to such request is for the purpose of the pending action only and does not constitute an admission by him for any other purpose and may not be used against him in any other proceeding.

RULE 37
REFUSAL TO MAKE DISCOVERY; CONSEQUENCES

37.01 Refusal to Answer

If a party or other witness refuses to answer any question propounded upon oral examination, the examination shall be completed on other matters or adjourned, as the proponent of the question may prefer. Thereafter, on reasonable notice to all persons affected thereby, he may apply to the court in which the action is pending or the court in the district where the deposition is taken for an order compelling an answer. Upon the refusal of a witness to answer any interrogatory submitted under Rule 31 or upon the refusal of a party to answer any interrogatory submitted under Rule 33, the proponent of the question may on like notice make like application for such an order. If the motion is granted and if the court finds that the refusal was without substantial justification, the court shall require the refusing party or witness and the party or attorney advising the refusal or both of them to pay to the examining party the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees. If the motion is denied and if the court finds that the motion was made without substantial justification, the court shall require the examining party or the attorney advising the motion or both of them to pay to the refusing party or witness the amount of the reasonable expenses incurred in opposing the motion, including reasonable attorney's fees.

37.02 Failure to Comply with Order

(1) Contempt. If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so, the refusal may be considered a contempt of the court making the order or the court in which the action is pending.

(2) Other Consequences. If any party or an officer or managing agent of a party refuses to obey an order made under Rule 37.01 requiring him to answer designated questions, or an order made under Rule 34, or an order made under Rule 35, the court may make such orders in regard to the refusal as are just, and among others the following:

(a) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or the mental or physical or blood condition sought to be examined, or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(b) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing in evidence designated documents or things or items of testimony, or from introducing evidence of mental or physical or blood condition sought to be examined;

(c) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(d) Where a party has failed to comply with an order under Rule 35.01 requiring him to produce another for examination, such orders as are listed in paragraphs (a), (b), and (c) of this rule, unless the party failing to comply shows that he is unable to produce such person for examination.

(e) In lieu of any of the foregoing orders or in addition thereto an order directing the arrest of any party or agent of a party for disobeying any of such orders except an order to submit to mental or physical or blood examination.

(As amended March 3, 1959, effective July 1, 1959.)

37.03 Expenses on Refusal to Admit

If a party, after being served with a request under Rule 36 to admit the genuineness of any documents or the truth of any matters of fact, serves a sworn denial thereof and if the party re-

questing the admission thereafter proves the genuineness of any such document or the truth of any such matter of fact, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making such proof, including reasonable attorney's fees. Unless the court finds that there were good reasons for the denial or that the admissions sought were of no substantial importance, the order shall be made.

37.04 Failure of Party to Attend or Serve Answers

If a party or an officer or managing agent of a party wilfully fails to appear before the officer who is to take his deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 33, the court, on motion and notice, may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party.

VI. TRIALS

RULE 38
JURY TRIAL OF RIGHT

38.01 Right Preserved

In actions for the recovery of money only, or of specific real or personal property, or for a divorce on the ground of adultery, the issues of fact shall be tried by a jury, unless a jury trial be waived or a reference be ordered.

38.02 Waiver

In actions arising on contract, and by permission of the court in other actions, any party thereto may waive a jury trial in the manner following:

(1) By failing to appear at the trial;

(2) By written consent, by the party or his attorney, filed with the clerk;

(3) By oral consent in open court, entered in the minutes.

38.03 Placing Action on Calendar

A party desiring to have an action placed on the calendar for trial shall, after issue is joined, prepare a note of issue setting forth the title of the action, whether the issue is one of fact or of law, and if an issue of fact whether it is triable by court or by jury, and the names and addresses of the respective counsel, and shall serve the same on counsel for all parties not in default and file it, with proof of service, with the clerk within 10 days after such service in all districts where but one term of court is held annually and in all other districts at least 8 days before the beginning of a general term; and thereupon the action shall be placed on the calendar for trial and shall remain thereon from term to term until tried or stricken therefrom. The party serving a note of issue shall, and any other party may, serve a note of issue upon counsel for any person who becomes a party to the action subsequent to the initial service. (As amended March 3, 1959, effective July 1, 1959.)

RULE 39
TRIAL BY JURY OR BY THE COURT

39.01 By Court

Issues of fact not submitted to a jury as provided in Rule 38 shall be tried by the court.

39.02 Advisory Jury and Trial by Consent

In all actions not triable of right by a jury the court, upon motion or of its own initiative, may try an issue with an advisory jury, or the court, with the consent of both parties, may order a trial with a jury whose verdict has the same effect as if trial by jury had been a matter of right.

RULE 40
ASSIGNMENT OF CASES FOR TRIAL

The judges of the court may, by order or by rule of court, provide for the setting of cases for trial upon the calendar, the order in which they shall be heard and the resetting thereof.

RULE 41
DISMISSAL OF ACTIONS

41.01 Voluntary Dismissal; Effect Thereof

(1) **By Plaintiff; by Stipulation.** Subject to the provisions of Rule 23.03 and of Rule 66, an action may be dismissed by the plaintiff without order of court (a) by filing a notice of dismissal not less than 10 days before the opening of the term of court at which the action is noted for trial or, in counties having continuous terms of court, not less than 10 days before the day on which the action is first set for trial, if a provisional remedy has not been allowed or a counterclaim made or other affirmative relief demanded in the answer, or (b) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

(2) **By Order of Court.** Except as provided in paragraph (1) of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice.

41.02 Involuntary Dismissal; Effect Thereof

(1) The court may on its own motion, or upon motion of a party, and upon such notice as it may prescribe, dismiss an action or claim for failure to prosecute or to comply with these rules or any order of the court.

(2) After the plaintiff has completed the presentation of his evidence, the defendant, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. In an action tried by the court without a jury the court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in Rule 52.01.

(3) Unless the court in its order for dismissal otherwise specifies, a dismissal under this rule and any dismissal not provided for in this rule or in Rule 41.01, other than a dismissal for lack of jurisdiction or for lack of an indispensable party, operates as an adjudication upon the merits. (As amended March 3, 1959, effective July 1, 1959.)

41.03 Dismissal of Counterclaim, Cross-Claim, or Third-Party Claim

The provisions of Rules 41.01 and 41.02 apply to the dismissal of any counterclaim, cross-claim, or third-party claim.

41.04 Costs of Previously Dismissed Action

If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

RULE 42
CONSOLIDATION; SEPARATE TRIALS

42.01 Consolidation

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

42.02 Separate Trials

The court in furtherance of convenience or to avoid prejudice may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues.

RULE 43
EVIDENCE

43.01 Form and Admissibility

In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by these rules. All evidence shall be admitted which is admissible under the statutes of this state, or under the rules of evidence heretofore applied in the trials of actions in the courts of this state. In any case, the statute or rule which favors the reception of the evidence governs, and the evidence shall be presented according to the most convenient method prescribed in any of the statutes or rules to which reference is herein made. The competency of a witness to testify shall be determined in like manner.

43.02 Examination of Hostile Witnesses and Adverse Parties

A party may interrogate an unwilling or hostile witness by leading questions. A party may call an

adverse party of his managing agent or employe or an officer, director, managing agent or employe of the state or any political subdivision thereof or of a public or private corporation or of a partnership or association or body politic which is an adverse party, and interrogate him by leading questions and contradict and impeach him on material matters in all respects as if he had been called by the adverse party. Where the witness is an adverse party he may be examined by his counsel upon the subject matter of his examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted and impeached by any other party adversely affected by his testimony. Where the witness is an officer, director, managing agent, or employe of the adverse party he may be cross-examined, contradicted and impeached by any party to the action. (As amended March 3, 1959, May 8, 1959, effective July 1, 1959.)

43.03 Record of Excluded Evidence

In an action tried by a jury, if an objection to a question propounded to a witness is sustained by the court, the examining attorney may make a specific offer of what he expects to prove by the answer of the witness. The court may require the offer to be made out of the hearing of the jury. The court may add such other or further statement as clearly shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. In actions tried without a jury the same procedure may be followed, except that the court, upon request, shall take and report the evidence in full, unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged.

43.04 Affirmation in Lieu of Oath

Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

43.05 Evidence and Motions

When a motion is based on facts not appearing of record, the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

43.06 Res Ipsa Loquitur

Res ipsa loquitur shall be regarded as nothing more than one form of circumstantial evidence creating a permissive inference of negligence. The plaintiff shall be given the benefit of its natural probative force existing at the close of all the evidence even though he has introduced specific evidence of negligence or made specific allegations of negligence in his pleadings.

RULE 44
PROOF OF OFFICIAL RECORD

44.01 Authentication of Copy

An official record or any entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office.

44.02 Proof of Lack of Record

A written statement signed by an officer having the custody of an official record, or by his deputy, that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry.

44.03 Other Proof

This rule does not prevent the proof of official records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

RULE 45
SUBPOENA

45.01 For Attendance of Witnesses; Form; Issuance

Every subpoena shall be issued by the clerk under the seal of the court, shall state the name of the court and the title of the action, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. The clerk shall issue a subpoena, or a subpoena for the production of documentary evidence or tangible things, signed and sealed, but otherwise in blank, to a party requesting it, who shall fill it in before service.

45.02 For Production of Documentary Evidence

A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable or oppressive, or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

45.03 Service

A subpoena may be served by the sheriff, by his deputy, or any other person who is not a party. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person or by leaving a copy at his usual place of abode with some person of suitable age and discretion then residing therein and by tendering to him the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the state of Minnesota or an officer or agency thereof, fees and mileage need not be tendered. (As amended March 3, 1959, effective July 1, 1959.)

45.04 Subpoena for Taking Depositions; Place of Examination

(1) Proof of service of notice to take a deposition as provided in Rules 30.01 and 31.01 constitutes a sufficient authorization for the issuance of subpoenas for the persons named or described therein. The subpoena may command the person to whom it is directed to produce designated books, papers, documents, or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by Rule 26.02, but in that event the subpoena will be subject to the provisions of Rules 30.02 and 45.02.

(2) A resident of this state may be required to attend an examination only in the county wherein he resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of court. A nonresident of the state may be required to attend in any county of the state.

45.05 Subpoena for a Hearing or Trial

At the request of any party, the clerk of the district court shall issue subpoenas for witnesses in all civil cases pending before that court, or before any magistrate, arbitrator, board, committee, or other person authorized to examine witnesses. A subpoena requiring the attendance of a witness at a hearing or trial may be served at any place within the state.

45.06 Contempt

Failure to obey a subpoena without adequate excuse is a contempt of court. (As amended March 3, 1959, effective July 1, 1959.)

RULE 46
EXCEPTIONS UNNECESSARY

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been taken it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him. A minute of the objection to the ruling or order shall be made by the judge or reporter; and the same may be preserved in a settled case.

RULE 47
JURORS

47.01 Examination of Jurors

The court may permit the parties or their attorneys to conduct the examination of prospective jurors or may itself conduct the examination. In the latter

event, the court shall permit the parties or their attorneys to supplement the examination by such further inquiry as it deems proper.

47.02 Alternate Jurors

The court may direct that one or two jurors in addition to the regular panel be called and impaneled to sit as alternate jurors. Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the principal jurors. An alternate juror who does not replace a principal juror shall be discharged after the jury retires to consider its verdict. If one or two alternate jurors are called, each party is entitled to one peremptory challenge in addition to those otherwise allowed by law. The additional peremptory challenge may be used only against an alternate juror, and the other peremptory challenges allowed by law shall not be used against the alternates.

RULE 48
JURIES OF LESS THAN TWELVE; MAJORITY VERDICT

The parties may stipulate that the jury shall consist of any number less than 12, or that a verdict or a finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury.

RULE 49
SPECIAL VERDICTS AND INTERROGATORIES

49.01 Special Verdicts

The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and require written findings thereon as it deems most appropriate. The court shall give to the jury such explanations and instructions concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his right to a trial by jury of the issue so omitted unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand, the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

49.02 General Verdict Accompanied by Answer to Interrogatories

The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the court shall direct the entry of the appropriate judgment upon the verdict and answers. When the answers are consistent with each other, but one or more is inconsistent with the general verdict, the court may direct the entry of judgment in accordance with the answers, notwithstanding the general verdict, or may return the jury for further consideration of its answers and verdict, or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, the court shall not direct the entry of judgment, but may return the jury for further consideration of its answers and verdict, or may order a new trial.

RULE 50
MOTION FOR A DIRECTED VERDICT; JUDGMENT NOTWITHSTANDING VERDICT; ALTERNATIVE MOTION

50.01 Directed Verdict; When Made; Effect

A motion for a directed verdict may be made at the close of the evidence offered by an opponent or at the close of all the evidence. A party who moves for a directed verdict at the close of the evidence offered by an opponent shall, after denial of the motion, have the right to offer evidence as if the motion had not been made. A motion for a directed verdict which is not granted is not a waiver of trial by jury even though all parties to the action have moved for directed verdicts. A motion for a directed verdict shall state the specific grounds therefor. If the evidence is sufficient to sustain a verdict for the opponent, the motion shall not be granted.

50.02 Judgment Notwithstanding Verdict

(1) A party may move that judgment be entered notwithstanding the verdict or notwithstanding the jury has disagreed and been discharged, whether or not he has moved for a directed verdict, and the court shall grant the motion if the moving party would have been entitled to a directed verdict at the close of the evidence.

(2) A motion for judgment notwithstanding the verdict may include in the alternative a motion for a new trial. When such alternative motion is made and the court grants the motion for judgment notwithstanding the verdict, the court shall at the same time grant or deny the motion for a new trial, but in such case the order on the motion for a new trial shall become effective only if and when the order granting the motion for judgment notwithstanding the verdict is reversed, vacated, or set aside.

(3) A motion for judgment notwithstanding the verdict or notwithstanding the jury has disagreed and been discharged shall be made within the time specified in Rule 59 for the making of a motion for a new trial. On a motion for judgment notwithstanding the jury has disagreed and been discharged, the date of discharge shall be the equivalent of the date of rendition of a verdict within the meaning of that rule, but such motion must in any event be made before a retrial of the action is begun.

RULE 51
INSTRUCTIONS TO JURY; OBJECTION

At the close of the evidence or at such earlier time during the trial as the court reasonably directs, any party may file written requests that the court instruct the jury on the law as set forth in the requests. The court shall inform the counsel of its proposed action upon the requests prior to their arguments to the jury, and such action shall be made a part of the record; but the court shall instruct the jury after the arguments are completed. No party may assign as error unintentional misstatements and verbal errors, or omissions in the charge, unless he objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which he objects and the grounds of his objections. An error in the instructions with respect to fundamental law or controlling principle may be assigned in a motion for a new trial though it was not otherwise called to the attention of the court.

RULE 52
FINDINGS BY THE COURT

52.01 Effect

In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon and direct the entry of the appropriate judgment; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless cleary erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. The findings of a referee, to the extent that the court adopts them, shall be considered as the findings of the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rule 41.02.

52.02 Amendment

Upon motion of a party made not later than the time allowed for a motion for new trial pursuant to Rule 59.03, the court may amend its findings or make additional findings, and may amend the judgment accordingly if judgment has been entered. The motion may be made with a motion for a new trial. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the district court an objection to such findings or has made a motion to amend them or a motion for judgment. (As amended March 3, 1959, effective July 1, 1959.)

RULE 53
REFEREES

53.01 Appointment and Compensation

The court in which any action is pending may appoint a referee therein. When the court shall state in its order of appointment that the reference is made necessary by press of business, the fees of the referee, as taxed and allowed by the court, shall be paid out of the county treasury, as the salaries of county officers are paid. In other cases the compensation to be allowed to a referee shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action which is in the custody and control of the court as the court may direct. The referee shall not retain his report as security for his compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the referee is entitled to a writ of execution against the delinquent party.

53.02 Reference

A reference to a referee shall be the exception and not the rule. In actions to be tried by a jury, a reference shall be made only when the issues are complicated; in actions to be tried without a jury, save in matters of account, a reference shall be made only upon a showing that some exceptional condition requires it.

53.03 Powers

The order of reference to the referee may specify or limit his powers and may direct him to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the referee's report. Subject to the specifications and limitations stated in the order, the referee has and shall exercise the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order. He may require the production before him of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. He may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may himself examine them and may call the parties to the action and examine them upon oath. When a party so requests, the referee shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 43.03 for a court sitting without a jury.

53.04 Proceedings

(1) **Meetings.** When a reference is made, the clerk shall forthwith furnish the referee with a copy of the order of reference. Upon receipt thereof, unless the order of reference otherwise provides, the referee shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the referee to proceed with all reasonable diligence. Either party, on notice to the parties and referee, may apply to the court for an order requiring the referee to speed the proceedings and to make his report. If a party fails to appear at the time and place appointed, the referee may proceed ex parte or, in his discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) **Witnesses.** The parties may procure the attendance of witnesses before the referee by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, he may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45.

(3) **Statement of Accounts.** When matters of accounting are in issue before the referee, he may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the referee may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as he directs.

53.05 Report

(1) **Contents and Filing.** The referee shall prepare a report upon the matters submitted to him by the order of reference and, if required to make findings of fact and conclusions of law, he shall set them forth in the report. He shall file the report with the clerk of the court and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it a transcript of the proceedings and of the evidence and the original exhibits. The clerk shall forthwith mail to all parties notice of the filing.

(2) **In Non-Jury Actions.** In an action to be tried without a jury the court shall accept the referee's findings of fact unless clearly erroneous. Within 10 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in Rule 6.04. The court after hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

(3) **In Jury Actions.** In an action to be tried by a jury the referee shall not be directed to report the evidence. His findings upon the issues submitted to him are admissible as evidence of the matters found and may be read to the jury, subject to the ruling of the court upon any objections in point of law which may be made to the report.

(4) **Stipulation as to Findings.** The effect of a referee's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a referee's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.

(5) **Draft Report.** Before filing his report, a referee may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.

RULE 54
JUDGMENTS; COSTS

54.01 Definition; Form

Judgment as used in these rules includes a decree and means the final determination of the rights of the parties in an action or proceeding. A judgment shall not contain a recital of pleadings, the report of a referee, or the record of prior proceedings.

54.02 Judgment upon Multiple Claims

When multiple claims for relief or multiple parties are involved in an action, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties. (As amended March 3, 1959, effective July 1, 1959.)

54.03 Demand for Judgment

A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every other judgment shall grant the relief to which the party in whose favor it is rendered is entitled.

54.04 Costs

Costs and disbursements shall be allowed as provided by statute. Costs and disbursements may be taxed by the clerk on two days' notice, and inserted in the judgment. The disbursements shall be stated in detail and verified by affidavit, which shall be filed, and a copy of such statement and affidavit shall be served with the notice. The party objecting to any item shall specify in writing the ground thereof; a party aggrieved by the action of the clerk may file a notice of appeal with the clerk, who shall forthwith certify the matter to the court. The appeal shall be heard upon eight days' notice and determined upon the objections so certified.

RULE 55
DEFAULT

55.01 Judgment

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend within the time allowed therefor by these rules or by statute, and that fact is made to appear by affidavit, judgment by default shall be entered against him as follows:

(1) When the plaintiff's claim against a defendant is upon a contract for the payment of money only, or for the payment of taxes and penalties and interest thereon owing to the state, the clerk, upon request of the plaintiff and upon affidavit of the amount due, which may not exceed the amount demanded in the complaint, shall enter judgment for the amount due and costs against the defendant.

(2) In all other cases, the party entitled to a judgment by default shall apply to the court therefor. If a party against whom judgment is sought has appeared in the action, he shall be served with written notice of the application for judgment at least three days prior to the hearing on such application. If the action be one for the recovery of money only, the court shall ascertain, by a reference or otherwise, the amount to which the plaintiff is entitled, and order judgment therefor.

(3) If other relief than the recovery of money be demanded and the taking of an account, or the proof of any fact, be necessary to enable the court to give judgment, it may take or hear the same or order a reference for that purpose, and order judgment accordingly.

(4) When service of the summons has been made by published notice, or by delivery of a copy without the state, no judgment shall be entered on default until the plaintiff shall have filed a bond, approved by the court, conditioned to abide such order as the court may make touching the restitution of any property collected or obtained by virture of the judgment in case a defense is thereafter permitted and sustained; provided, that in actions involving the title to real estate or to foreclose mortgages thereon such bond shall not be required. (As amended March 3, 1959, effective July 1, 1959.)

55.02 Plaintiffs; Counterclaimants; Cross-Claimants

The provisions of this rule apply whether the party entitled to judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim. In all cases, a judgment by default is subject to the limitations of Rule 54.03.

RULE 56
SUMMARY JUDGMENT

56.01 For Claimant

A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof.

56.02 For Defending Party

A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

56.03 Motion and Proceedings Thereon.

The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. Judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that either party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. (As amended March 3, 1959, effective July 1, 1959.)

56.04 Case not Fully Adjudicated on Motion

If, on motion under this rule, judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

56.05 Form of Affidavits; Further Testimony; Defense Required

Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions or by further affidavits. When a motion for summary judgment is made and supported as provided in Rule 56, an adverse party may not rest upon the mere averments or denials of his pleading but must present specific facts showing that here is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him. (As amended March 3, 1959, effective July 1, 1959.)

56.06 When Affidavits are Unavailable

Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present, by affidavit, facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

56.07 Affidavits Made in Bad Faith

Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

RULE 57
DECLARATORY JUDGMENTS

The procedure for obtaining a declaratory judgment pursuant to M.S.A. 1949, c. 555, shall be in accordance with these rules, and the right to trial by jury is retained under the circumstances and in the manner provided in Rules 38 and 39. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.

RULE 58
ENTRY OF JUDGMENT; STAY

58.01 Entry

Unless the court otherwise directs, and subject to the provisions of Rule 54.02, judgment upon the verdict of a jury, or upon an order of the court for the recovery of money only or for costs or that all relief be denied, shall be entered forthwith by the clerk; but the court shall direct the appropriate judgment to be entered upon a special verdict or upon a general verdict accompanied by answers to interrogatories returned by a jury pursuant to Rule 49 or upon an order of the court for relief other than money or costs. Entry of judgment shall not be delayed for the taxation of costs, and the omission of costs shall not affect the finality of the judgment. The judgment in all cases shall be entered and signed by the clerk in the judgment book; this entry constitutes the entry of the judgment; and the judgment is not effective before such entry. A copy thereof, also signed by the clerk, shall be attached to the judgment roll. (As amended March 3, 1959, effective July 1, 1959.)

58.02 Stay

The court may order a stay of entry of judgment upon a verdict or decision for a period not exceeding the time required for the hearing and determination of a motion for new trial or for judgment notwithstanding the verdict or to set the verdict aside or to dismiss the action or for amended findings, and after such determination may order a stay of entry of judgment for not more than 30 days. (As amended March 3, 1959, effective July 1, 1959.)

RULE 59
NEW TRIALS

59.01 Grounds

A new trial may be granted to all or any of the parties and on all or part of the issues for any of the following causes:

(1) Irregularity in the proceedings of the court, referee, jury, or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair trial;

(2) Misconduct of the jury or prevailing party;

(3) Accident or surprise which could not have been prevented by ordinary prudence;

(4) Material evidence, newly discovered, which with reasonable diligence could not have been found and produced at the trial;

(5) A transcript of the proceedings at the trial cannot be obtained;

(6) Excessive or insufficient damages, appearing to have been given under the influence of passion or prejudice;

(7) Errors of law occurring at the trial, and objected to at the time or, if no objection need have been made under Rules 46 and 51, plainly assigned in the notice of motion;

(8) The verdict, decision, or report is not justified by the evidence, or is contrary to law; but, unless it be so expressly stated in the order granting a new trial, it shall not be presumed, on appeal, to have been made on the ground that the verdict, decision, or report was not justified by the evidence.

On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct entry of a new judgment. (As amended March 3, 1959, effective July 1, 1959.)

59.02 Basis of Motion

If the motion be made for a cause mentioned in Rule 59.01, clauses (1) to (5), pertinent facts not appearing of record shall be shown by affidavit; if for any other cause, a case shall first be settled and included in the record, unless the moving party notices the motion to be heard on the minutes of the court. If the motion is made on the minutes, it shall be heard on the minutes of the judge or of the reporter and it shall not be necessary for the moving party to furnish the court or the opposing party a transcript of the reporter's minutes, or of any part thereof, as a condition to having the motion heard; but, if the order be appealed from, a case shall be proposed by the appellant and be settled and returned with the record to the supreme court. The records and files of the court pertaining to the case may be referred to without being mentioned in the notice of motion. (As amended March 3, 1959, effective July 1, 1959.)

59.03 Time for Motion

(1) A notice of motion for a new trial for a cause not appearing of record, but shown by affidavit, shall be served not later than 60 days after verdict or notice of the filing of the decision or report, unless the time be extended by the court for cause upon application made during such 60-day period.

(2) A notice of motion for a new trial where the record must include a settled case shall be served not later than 30 days after the case is settled, unless the time be extended by the court for cause upon application made during such 30-day period.

(3) A notice of motion for a new trial to be heard on the minutes shall be served within 15 days after verdict or notice of the filing of the decision or report; and the motion shall be heard within 30 days after verdict or notice, unless the time for hearing be extended by the court for good cause shown during such 30-day period.

59.04 Time for Serving Affidavits

When a motion for new trial is based upon affidavits, they shall be served with the notice of motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period, not exceeding 20 days, either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

59.05 On Initiative of Court

Not later than 10 days after entry of judgment, the court of its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party, and in the order shall specify the grounds therefor.

59.06 Stay of Entry of Judgment

A stay of entry of judgment under Rule 58 shall not be construed to extend the time within which a party may serve a motion or settle a case.

59.07 Case; How and When Settled

A case shall mean a written statement of the proceedings in the cause, excluding all pleadings and other papers properly filed with the clerk. It should contain only the evidence and other proceedings on the trial material to the questions of law or fact that the parties may choose to present for review. The transcript must have been ordered, and the order accepted by the reporter, not later than 30 days after verdict or notice of the filing of the decision. The date of delivery of the transcript shall be reported by the reporter to the clerk and recorded by the clerk. The party preparing a case shall serve the same on the adverse party, by copy, within 10 days after delivery of the transcript. The party served may in like manner propose amendments thereto within 5 days. Such case, with the amendments, if any, shall within 10 days after the service of such amendments be presented to the judge or referee who tried the cause, for settlement, upon notice of 5 days. If a motion be heard on the minutes, the aggrieved party may order a transcript within 10 days after notice of decision thereon and propose a case as provided by this rule. The times herein limited may be extended by order of the court; and the court, in its discretion and upon proper terms, may grant leave to propose a case after the time herein allowed therefor has expired. (As amended March 3, 1959, effective July 1, 1959.)

59.08 Settling Case; When Judge Incapacitated

When the judge who tried the cause ceases to be such, or dies or becomes incapacitated from sickness or other cause, or is without the state at the time limited for such settlement, such case may be settled by a judge of the same or an adjoining district; and when a referee dies, or becomes incapacitated, or is so absent, the case may be settled by a judge of the court in which the action is pending. In either case the allowance or settlement shall be made upon the files in the cause, the minutes of the judge or referee, or of the stenographer, if obtainable, and upon such proof of what occurred at the trial as may be presented by affidavit, with like effect as if settlement were by the judge or referee who tried the cause.

RULE 60
RELIEF FROM JUDGMENT OR ORDER

60.01 Clerical Mistakes

Clerical mistakes in judgments, orders, or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

60.02 Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc.

On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment (other than a divorce decree), order, or proceeding for the following reasons: (1) Mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59.03; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken. A motion under this Rule 60.02 does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided in Rule 4.043, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of

review are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

RULE 61
HARMLESS ERROR

No error in either the admission or the exclusion of evidence and no error or defect in any ruling or order or in anything done or omitted by the court or by any of the parties is ground for granting a new trial or for setting aside a verdict or for vacating, modifying or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.

RULE 62
STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

62.01 Stay on Motions
In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment notwithstanding the verdict made pursuant to Rule 50.02, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52.02

62.02 Injunction Pending Appeal
When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

62.03 Stay Upon Appeal
When an appeal is taken, the appellant may obtain a stay only when authorized and in the manner provided in M.S.A. 1949, c. 605.

62.04 Stay in Favor of the State or Agency Thereof
When an appeal is taken by the state or an officer or agency or governmental subdivision thereof, and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.

62.05 Power of Appellate Court not Limited
The provisions in this rule do not limit any power of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

62.06 Stay of Judgment Upon Multiple Claims
When a court has ordered a final judgment on some but not all of the claims presented in the action under the conditions stated in Rule 54.02, the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefits thereof to the party in whose favor the judgment is entered.

RULE 63
DISABILITY OR DISQUALIFICATION OF JUDGE; AFFIDAVIT OF PREJUDICE; ASSIGNMENT OF A JUDGE

63.01 Disability of Judge
If by reason of death, sickness, or other disability a judge before whom an action has been tried is unable to perform the duties to be performed by the court under these rules after a verdict is returned or findings of fact and conclusions of law are filed, then any other judge regularly sitting in or assigned to the court in which the action was tried may perform those duties; but if such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial.

63.02 Interest or Bias
No judge shall sit in any cause if he be interested in its determination or if he might be excluded for bias from acting therein as a juror. If there be no other judge of the district who is qualified, or if there be only one judge of the district, such judge shall forthwith notify the chief justice of the supreme court of his disqualification.

63.03 Affidavit of Prejudice
Any party or his attorney may make and serve on the opposing party and file with the clerk an affidavit stating that, on account of prejudice or bias on the part of the judge who is to preside at the trial or at the hearing of any motion, he has good reason to believe and does believe that he cannot have a fair trial or hearing before such judge. The affidavit shall be served and filed not less than 10 days prior to the first day of a general term, or 5 days prior to a special term or a day fixed by notice of motion, at which the trial or hearing is to be had, or, in any district having two or more judges, within one day after it is ascertained which judge is to preside at the trial or hearing. Upon the filing of such affidavit, with proof of service, the clerk shall forthwith assign the cause to another judge of the same district, and if there be no other judge of the district who is qualified, or if there be only one judge of the district, he shall forthwith notify the chief justice of the supreme court.

63.04 Assignment of Judge
Upon receiving notice as provided in Rules 63.02 and 63.03, the chief justice shall assign a judge of another district, accepting such assignment, to preside at the trial or hearing, and the trial or hearing shall be postponed until the judge so assigned can be present.

VII. PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

RULE 64
SEIZURE OF PERSON OR PROPERTY

At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by the law of the state.

RULE 65
INJUNCTIONS

The procedure for granting restraining orders and temporary and permanent injunctions shall be as provided by statute.

RULE 66
RECEIVERS

An action wherein a receiver has been appointed shall not be dismissed except by order of the court. A foreign receiver shall have capacity to sue in any district court, but his rights are subordinate to those of local creditors. The practice in the administration of estates by the court shall be in accordance with M.S.A. 1949, c. 576, and with the practice heretofore followed in the courts of this state or as provided in rules promulgated by the district courts. In all other respects, the action in which the appointment of a receiver is sought or which is brought by or against a receiver is governed by these rules.

RULE 67
DEPOSIT IN COURT

67.01 In an Action
In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing.

67.02 When no Action is Brought
When money or other personal property in the possession of any person, as bailee or otherwise, is claimed adversely by two or more other persons, and the right thereto as between such claimants is in doubt, the person so in possession, though no action be commenced against him by any of the claimants, may place the property in the custody of the court. He shall apply to the court of the county in which the property is situated, setting forth by petition the facts which bring the case within the provisions of this section, and the names and places of residence of all known claimants of such property. If satisfied of the truth of such showing, the court, by order, shall accept custody of the money or other property, and direct that upon delivery, and upon giving notice thereof to all persons interested, personally or by registered mail, as in such order prescribed, the petitioner be relieved from further liability on account thereof. This rule shall apply to cases where property held under like conditions is garnished in the hands of the possessor; but in such cases the application shall be made to the court in which the garnishment proceedings are pending.

67.03 *Court May Order Deposit or Seizure of* Property

When it is admitted by the pleading or examination of a party that he has in his possession or control any money or other thing capable of delivery which, being the subject of the litigation, is held by him as trustee for another party, or which belongs or is due to another party, the court may order the same to be deposited in court or delivered to such other party, with or without security, subject to further direction. If such order be disobeyed, the court may punish the disobedience as a contempt, and may also require the sheriff or other proper officer to take the money or property and deposit or deliver it in accordance with the direction given.

67.04 Money Paid into Court

Where money is paid into the court to abide the result of any legal proceedings, the judge may order it deposited in a designated state or national bank or savings bank. In the absence of such order, the clerk of court is the official custodian of all moneys, and the judge, on application of any person paying such money into court, may require the clerk to give an additional bond, with like condition as the bond provided for in M.S.A. 1949, § 485.01, in such sum as the judge shall order.

RULE 68
OFFER OF JUDGMENT; TENDER OF MONEY IN LIEU OF JUDGMENT

68.01 *Offer of Judgment*

At any time more than one day before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against him for the money or property, or to the effect specified in his offer, with costs and disbursements then accrued. If before trial the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with the proof of service thereof, and thereupon the clerk shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible, except in a proceeding to determine costs and disbursements. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs and disbursements incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer.

68.02 Tender of Money in Lieu of Judgment

If the action be for the recovery of money, instead of the offer of judgment provided for in Rule 68.01, the defendant may tender to the plaintiff the full amount to which he is entitled, together with costs and disbursements then accrued. If such tender be not accepted, the plaintiff shall have no costs and disbursements unless he recover more than the sum tendered; and the defendant's costs and disbursements shall be deducted from the recovery, or, if they exceed the recovery, he shall have judgment for the excess. The fact of such tender having been made shall not be pleaded or given in evidence.

RULE 69
EXECUTION

Process to enforce a judgment for the payment of money shall be a writ of execution, unless the court directs otherwise. The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of execution shall be in accordance with M.S.A. 1949, c. 550. In aid of the judgment or execution, the judgment creditor, or his successor in interest when that interest appears of record, may examine any person, including the judgment debtor, in the manner provided in these rules for taking depositions.

RULE 70
JUDGMENT FOR SPECIFIC ACTS; VESTING TITLE

If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court, and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the clerk shall issue a writ of attachment against the property of the disobedient party to compel obedience to the judgment. The court may also in proper cases adjudge the party in contempt. If real or personal property is within the state, the court in lieu of directing a conveyance thereof may enter a judgment divesting the title of any party and vesting it in others; and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution upon application to the clerk.

RULE 71
PROCESS IN BEHALF OF AND AGAINST PERSONS NOT PARTIES

When an order is made in favor of a person who is not a party to the action, he may enforce obedience to the order by the same process as if he were a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, he is liable to the same process for enforcing obedience to the order as if he were a party.

(Note: Numbers 72 to 76 are reserved for future use.)

IX. DISTRICT COURTS AND CLERKS

RULE 77
DISTRICT COURTS AND CLERKS

77.01 District Courts Always Open

The district courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, and rules.

77.02 Trials and Hearings; Orders in Chambers

All trials upon the merits shall be conducted in open court and so far as convenient in a regular courtroom. All other acts or proceedings may be done or conducted by a judge in chambers, without the attendance of the clerk or other court officials and at any place either within or without the district; but no hearing, other than one ex parte, shall be conducted outside the district without the consent of all parties affected thereby.

77.03 Clerk's Office and Orders by Clerk

All motions and applications in the clerk's office for issuing mesne process, for issuing final process to enforce and execute judgments, for entering judgments by default, and for other proceedings which do not require allowance or order of the court are grantable of course by the clerk; but his action may be suspended or altered or rescinded by the court upon cause shown.

77.04 Notice of Orders or Judgments

Immediately upon the filing of an order or decision or entry of a judgment, the clerk shall serve a notice of the filing or entry by mail upon every party affected thereby or his attorney of record, whether or not such party has appeared in the action, at his last known address, and shall make a note in his records of the mailing, but such notice shall not limit the time for taking an appeal or other proceeding on such order, decision or judgment.

(Note: Numbers 78 and 79 are reserved for future use.)

RULE 80
STENOGRAPHIC REPORT OR TRANSCRIPT AS EVIDENCE

Whenever the testimony of a witness at a trial or hearing which was stenographically reported is admissible in evidence at a later trial, it may be proved by a reading of the transcript thereof duly certified by the person who reported the testimony. Such evidence is rebuttable and not conclusive.

RULE 81
APPLICABILITY; IN GENERAL

81.01 Statutory and Other Procedures

(1) **Procedures Preserved.** These rules do not govern pleadings, practice and procedure in the statutory and other proceedings listed in Appendix A insofar as they are inconsistent or in conflict with the rules.

(2) ***Procedures Abolished.*** The writ of mandamus and the writ of quo warranto and information in the nature of quo warranto are abolished. The relief heretofore available thereby may be obtained by appropriate action or appropriate motion under the practice prescribed in these rules.

(3) **Statutes Superseded.** Subject to the provisions of subparagraph (1) of this rule, the statutes listed in Appendix B and all other statutes inconsistent or in conflict with these rules are superseded insofar as they apply to pleading, practice and procedure in the district court. (As amended March 3, 1959, effective July 1, 1959.)

81.02 Appeals to District Courts

These rules do not supersede the provisions of statutes relating to appeals to the district courts.

81.03 Rules Incorporated into Statutes

Where any statute heretofore or hereafter enacted, whether or not listed in Appendix A, provides that any act in a civil proceeding shall be done in the manner provided by law, such act shall be done in accordance with these rules.

RULE 82
JURISDICTION AND VENUE

These rules shall not be construed to extend or limit the jurisdiction of the district courts of Minnesota or the venue of actions therein.

RULE 83
RULES BY DISTRICT COURTS

Any court may adopt rules governing its practice, and the judges of the district courts, pursuant to M.S.A.1949, §§ 484.33 and 484.52, may adopt rules, not in conflict with these rules.

RULE 84
APPENDIX OF FORMS

The forms contained in the Appendix of Forms are sufficient under the rules and are intended to indicate the simplicity and brevity of statement which the rules contemplate.

RULE 85
TITLE

These rules may be known and cited as Rules of Civil Procedure.

RULE 86
EFFECTIVE DATE

86.01 Effective Date and Application to Pending Proceedings

These rules will take effect on January 1, 1952. They govern all proceedings and actions brought after they take effect, and also all further proceedings in actions then pending, except to the extent that in the opinion of the court their application in a particular action pending when the rules take effect would not be feasible, or would work injustice, in which event the procedure existing at the time the action was brought applies.

86.02 Effective Date of Amendments

The amendments adopted on March 3rd, 1959, will take effect on July 1st, 1959. They govern all proceedings in actions brought after they take effect, and also all further proceedings in actions then pending, except as to the extent that in the opinion of the court their application in a particular action pending when the amendments take effect would not be feasible, or would work injustice, in which event the former procedure applies. (As amended March 3, 1959, effective July 1, 1959.)

APPENDIX OF FORMS
(See Rule 84)

INTRODUCTORY STATEMENT

1. The following forms are intended for illustration only. They are limited in number. No attempt is made to furnish a manual of forms.

2. Except where otherwise indicated, each pleading, motion, and other paper should have a caption similar to that of the summons, with the designation of the particular paper substituted for the word "SUMMONS." In the caption of the summons and in the caption of the complaint all parties must be named, but in other pleadings and papers it is sufficient to state the name of the first party on either side, with an appropriate indication of other parties. See Rules 4.01, 7.02(2), 10.01.

3. Each pleading, motion, and other paper is to be signed in his individual name by at least one attorney of record (Rule 11). The attorney's name is to be followed by his address as indicated in Form 2. In forms following Form 2 the signature and address are not indicated.

4. If a party is not represented by an attorney, the signature and address of the party are required in place of those of the attorney.

Form 1
SUMMONS

State of Minnesota, County of..... — District Court ..... Judicial District

A. B., Plaintiff
vs.
C. D., Defendant

SUMMONS

The State of Minnesota to the Above-Named Defendant:

You are hereby summoned and required to serve upon plaintiff's attorney an answer to the complaint [which is herewith served upon you] [which is on file in the office of the clerk of the above-named court] within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so judgment by default will be taken against you for the relief demanded in the complaint.

[This action involves, affects, or brings in question real property situated in the County of....., State of Minnesota, described as follows: The object of this action is.....]

Signed: .....,
Attorney for Plaintiff.
Address: .....

N. B. Use language in first bracket when complaint is served with summons, language in second bracket when complaint is filed, and language in second and third brackets when action involves real property and summons is served by publication. Where one defendant is served personally and another is served by publication both forms of summons may be used.

(As amended March 3, 1959, effective July 1, 1959.)

Form 2
COMPLAINT ON A PROMISSORY NOTE

1. Defendant on or about June 1, 1948, executed and delivered to the plaintiff a promissory note [in the following words and figures: (here set out the note verbatim)]; [a copy of which is hereto annexed as Exhibit A]; [whereby defendant promised to pay to plaintiff or order on June 1, 1949 the sum of one thousand dollars with interest thereon at the rate of six percent per annum].

2. Defendant owes to plaintiff the amount of said note and interest.

Wherefore plaintiff demands judgment against defendant for the sum of one thousand dollars, interest, costs, and disbursements.

Signed: .....,
Attorney for Plaintiff.
Address: .....

Form 3
COMPLAINT ON AN ACCOUNT

1. Defendant owes plaintiff one thousand dollars according to the account hereto annexed as Exhibit A.

Wherefore (etc., as in Form 2).

Form 4
COMPLAINT FOR GOODS SOLD AND DELIVERED

1. Defendant owes plaintiff one thousand dollars for goods sold and delivered by plaintiff to defendant between June 1, 1948 and December 1, 1948.

Wherefore (etc., as in Form 2).

Form 5
COMPLAINT FOR MONEY LENT

1. Defendant owes plaintiff one thousand dollars for money lent by plaintiff to defendant on June 1, 1948.

Wherefore (etc., as in Form 2).

Form 6
COMPLAINT FOR MONEY PAID BY MISTAKE

1. Defendant owes plaintiff one thousand dollars for money paid by plaintiff to defendant by mistake on June 1, 1948, under the following circumstances: (here state the circumstances with particularity—see Rule 9.02).

Wherefore (etc., as in Form 2).

Form 7
COMPLAINT FOR MONEY HAD AND RECEIVED

1. Defendant owes plaintiff one thousand dollars for money had and received from one G. H. on June 1, 1948, to be paid by defendant to plaintiff.

Wherefore (etc., as in Form 2).

Form 8
COMPLAINT FOR NEGLIGENCE

1. On June 1, 1948, in a public highway called University Avenue, in St. Paul, Minnesota, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against defendant in the sum of ten thousand dollars and costs.

Form 9

COMPLAINT FOR NEGLIGENCE WHERE PLAINTIFF IS UNABLE TO DETERMINE DEFINITELY WHETHER THE PERSON RESPONSIBLE IS C. D. OR E. F. OR WHETHER BOTH ARE RESPONSIBLE AND WHERE HIS EVIDENCE MAY JUSTIFY A FINDING OF WILFULNESS OR OF RECKLESSNESS OR OF NEGLIGENCE

A. B., Plaintiff
vs.
C. D. and E. F., Defendants } COMPLAINT

1. On June 1, 1948, in a public highway called University Avenue in St. Paul, Minnesota, defendant C. D. or defendant E. F., or both defendants C. D. and E. F. wilfully or recklessly or negligently drove or caused to be driven a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against C. D. or against E. F. or against both in the sum of ten thousand dollars and costs and disbursements.

Form 10

COMPLAINT FOR CONVERSION

1. On or about December 1, 1948, defendant converted to his own use ten bonds of the ..... Company (here insert brief identification as by number and issue) of the value of one thousand dollars, the property of plaintiff.

Wherefore plaintiff demands judgment against defendant in the sum of one thousand dollars, interest, costs, and disbursements.

Form 11

COMPLAINT FOR SPECIFIC PERFORMANCE OF CONTRACT TO CONVEY LAND

1. On or about December 1, 1948, plaintiff and defendant entered into an agreement in writing, a copy of which is hereto annexed as Exhibit A.

2. In accordance with the provisions of said agreement plaintiff tendered to defendant the purchase price and requested a conveyance of the land, but defendant refused to accept the tender and refused to make the conveyance.

3. Plaintiff now offers to pay the purchase price.

Wherefore plaintiff demands (1) that defendant be required specifically to perform said agreement, (2) damages in the sum of one thousand dollars, and (3) that if specific performance is not granted plaintiff have judgment against defendant in the sum of ten thousand dollars.

Form 12

COMPLAINT ON CLAIM FOR DEBT AND TO SET ASIDE FRAUDULENT CONVEYANCE UNDER RULE 18.02

A. B., Plaintiff
vs.
C. D. and E. F., Defendants } COMPLAINT

1. Defendant C. D. on or about ..... executed and delivered to plaintiff a promissory note [in the following words and figures: (here set out the note verbatim)]: (a copy of which is hereto annexed as Exhibit A); (whereby defendant C. D. promised to pay to plaintiff or order on ..... the sum of five thousand dollars with interest thereon at the rate of ..... percent per annum).

2. Defendant C. D. owes to plaintiff the amount of said note and interest.

3. Defendant C. D. on or about ....., conveyed all his property, real and personal (or specify and describe) to defendant E. F. for the purpose of defrauding plaintiff and hindering and delaying the collection of the indebtedness evidenced by the note above referred to.

Wherefore plaintiff demands:

(1) That plaintiff have judgment against defendant C. D. for five thousand dollars and interest; (2) that the aforesaid conveyance to defendant E. F. be declared void and the judgment herein be declared a lien on said property; (3) that plaintiff have judgment against the defendants for costs and disbursements.

Form 13

COMPLAINT FOR INTERPLEADER AND DECLARATORY RELIEF

1. On or about June 1, 1948, plaintiff issued to G. H. a policy of life insurance whereby plaintiff promised to pay to K. L. as beneficiary the sum of ten thousand dollars upon the death of G. H. The policy required the payment by G. H. of a stipulated premium on June 1, 1948, and annually thereafter as a condition precedent to its continuance in force.

2. No part of the premium due June 1, 1948, was ever paid and the policy ceased to have any force or effect on July 1, 1948.

3. Thereafter, on September 1, 1948, G. H. and K. L. died as the result of a collision between a locomotive and the automobile in which G. H. and K. L. were riding.

4. Defendant C. D. is the duly appointed and acting executor of the will of G. H.; defendant E. F. is the duly appointed and acting executor of the will of K. L.; defendant X. Y. claims to have been duly designated as beneficiary of said policy in place of K. L.

5. Each of defendants, C. D., E. F., and X. Y., is claiming that the above-mentioned policy was in full force and effect at the time of the death of G. H.; each of them is claiming to be the only person entitled to receive payment of the amount of the policy and has made demand for payment thereof.

6. By reason of these conflicting claims of the defendants, plaintiff is in great doubt as to which defendant is entitled to be paid the amount of the policy, if it was in force at the death of G. H.

Wherefore plaintiff demands that the court adjudge:

(1) That none of the defendants is entitled to recover from plaintiff the amount of said policy or any part thereof.

(2) That each of the defendants be restrained from instituting any action against plaintiff for the recovery of the amount of said policy or any part thereof.

(3) That, if the court shall determine that said policy was in force at the death of G. H., the defendants be required to interplead and settle between themselves their rights to the money due under said policy, and that plaintiff be discharged from all liability in the premises except to the person whom the court shall adjudge entitled to the amount of said policy.

(4) That plaintiff recover its costs and disbursements.

Form 14

MOTION TO DISMISS, PRESENTING DEFENSES OF FAILURE TO STATE A CLAIM, OF LACK OF SERVICE OF PROCESS, AND OF LACK OF JURISDICTION UNDER RULE 12.02

The defendant moves the court as follows:

1. To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.

2. To dismiss the action or in lieu thereof to quash the return of service of summons on the grounds: (Here state reasons, such as, (a) that the defendant is a corporation organized under the laws of Delaware and was not and is not subject to service of process within the State of Minnesota; (b) that the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M. N. and X. Y. hereto annexed as Exhibit A and Exhibit B respectively).

3. To dismiss the action on the ground that the court lacks jurisdiction (no justiciable controversy is presented, or as the case may be).

Signed: .....,
Attorney for Defendant.
Address: .....

Notice of Motion

To: .....
Attorney for Plaintiff.

* * *

Please take notice, that the undersigned will bring the above motion on for hearing before the court at a special term thereof, to be held at the court house in the City of ..... on the ..... day of ....., 19....., at ..... o'clock in the (forenoon) (afternoon) or as soon thereafter as counsel can be heard.

Signed: .....,
Attorney for Defendant.
Address: .....

Form 15

ANSWER PRESENTING DEFENSES UNDER RULE 12.02

First Defense

The complaint fails to state a claim against defendant upon which relief can be granted.

Second Defense

If defendant is indebted to plaintiffs for the goods mentioned in the complaint, he is indebted to them jointly with G. H. G. H. is alive; is a citizen and resident of this state; is subject to the jurisdiction of this court, as to both service of process and venue; can be made a party, but has not been made one.

Third Defense

Defendant admits the allegation contained in paragraphs 1 and 4 of the complaint; alleges that he is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 2 of the complaint; and denies each and every other allegation contained in the complaint.

Fourth Defense

The right of action set forth in the complaint did not accrue within six years next before the commencement of this action.

Counterclaim

(Here set forth any claim as a counterclaim in the manner in which a claim is pleaded in a complaint.)

Cross-Claim Against Defendant M. N.

(Here set forth the claim constituting a cross-claim against defendant M. N. in the manner in which a claim is pleaded in a complaint.)

Form 16

ANSWER TO COMPLAINT SET FORTH IN FORM 7, WITH COUNTERCLAIM FOR INTERPLEADER

Defense

Defendant denies the allegations stated to the extent set forth in the counterclaim herein.

Counterclaim for Interpleader

1. Defendant received the sum of one thousand dollars as a deposit from E. F.

2. Plaintiff has demanded the payment of such deposit to him by virtue of an assignment of it which he claims to have received from E. F.

3. E. F. has notified the defendant that he claims such deposit, that the purported assignment is not valid, and that he holds the defendant responsible for the deposit.

Wherefore defendant demands:

(1) That the court order E. F. to be made a party defendant to respond to the complaint and to this counterclaim.*

(2) That the court order the plaintiff and E. F. to interplead their respective claims.

(3) That the court adjudge whether the plaintiff or E. F. be entitled to the sum of money.

(4) That the court discharge defendant from all liability in the premises except to the person it shall adjudge entitled to the sum of money.

(5) That the court award to the defendant its costs and attorney's fees.

* Rule 13.08 provides for the court ordering parties to a counterclaim, but who are not parties to the original action, to be brought in as defendants.

Form 17

SUMMONS AND COMPLAINT AGAINST THIRD-PARTY DEFENDANT

State of Minnesota, District Court
County of .... Judicial District

A. B., Plaintiff
vs.
C. D., Defendant and Third-Party Plaintiff
vs.
E. F., Third-Party Defendant

SUMMONS

State of Minnesota to the Above-Named Third-Party Defendant:

You are hereby summoned and required to serve upon....., plaintiff's attorney whose address is ....., and upon....., who is attorney for C. D., defendant and third-party plaintiff, and whose address is....., an answer to the third-party complaint which is herewith served upon you within 20 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the third-party complaint.

There is also served upon you herewith a copy of the complaint of the plaintiff which you may answer.

Signed: .....,
Attorney for Defendant and Third-Party Plaintiff.
Address: .....

A. B., Plaintiff
vs.
C. D., Defendant and Third-Party Plaintiff
vs.
E. F., Third-Party Defendant

THIRD-PARTY COMPLAINT

1. Plaintiff A. B. has served upon C. D. a complaint, a copy of which is hereto attached as Exhibit .....

2. [Here state the grounds upon which C. D. is entitled to recover from E. F. all or part of what A. B. may recover from C. D. The statement should be framed as in an original complaint.]

Wherefore C. D. demands judgment against third-party defendant E. F. for all sums that may be adjudged against defendant C. D. in favor of plaintiff A. B.

Signed: .....,
Attorney for C. D., Third-Party Plaintiff.
Address: .....

(As amended March 3, 1959, effective July 1, 1959.)

Form 18

MOTION TO INTERVENE AS A DEFENDANT UNDER RULE 24

State of Minnesota, District Court
County of .... Judicial District

A. B., Plaintiff
vs.
C. D., Defendant
E. F. Applicant for Intervention

MOTION TO INTERVENE AS A DEFENDANT

E. F. moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in his proposed answer, of which a copy is hereto attached, on the grounds (here state them) and as such has a defense to plaintiff's claim presenting (both questions of law and of fact) which are common to the main action.

Signed:.....,
Attorney for E. F., Applicant for Intervention.
Address: .....

Notice of Motion

(Contents the same as in Form 14)

State of Minnesota, District Court
County of .... Judicial District

A. B., Plaintiff
vs.
C. D., Defendant
E. F., Intervener

INTERVENER'S ANSWER

First Defense

Intervener admits the allegations stated in paragraphs ..... and ..... of the complaint; denies the allegations in paragraphs ..... and .....

Second Defense

(Set forth any defenses.)

Signed: .....,
Attorney for E. F., Intervener.
Address: .....

Form 19

MOTION FOR PRODUCTION OF DOCUMENTS, ETC., UNDER RULE 34

Plaintiff A. B. moves the court for an order requiring defendant C. D.

(1) To produce and to permit plaintiff to inspect and to copy each of the following documents:

(Here list the documents and describe each of them.)

(2) To produce and permit plaintiff to inspect and to photograph each of the following objects:

(Here list the documents and describe each of them.)

(3) To permit plaintiff to enter (here describe property to be entered) and to inspect and to photograph (here describe the portion of the real property and the objects to be inspected and photographed).

Defendant C. D. has the possession, custody, or control of each of the foregoing documents and objects and of the above mentioned real estate. Each of them constitutes or contains evidence relevant and material to a matter involved in this action, as is more fully shown in Exhibit A hereto attached.

Signed: .....,
Attorney for Plaintiff.
Address: .....

Notice of Motion
(Contents the same as in Form 14)
Exhibit A

State of Minnesota,
County of .....

A. B., being duly sworn says:

(1) (Here set forth all that plaintiff knows which shows that defendant has the papers or objects in his possession or control.)

(2) (Here set forth all that plaintiff knows which shows that each of the above mentioned items is relevant to some issue in the action.)

(Jurat)

Signed: A. B.

Form 20

REQUEST FOR ADMISSION UNDER RULE 36

Plaintiff A. B. requests defendant C. D. within ..... days after service of this request to make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial:

1. That each of the following documents, exhibited with this request, is genuine.

(Here list the documents and describe each document.)

2. That each of the following statements is true.

(Here list the statements.)

Signed: .....,
Attorney for Plaintiff.
Address: .....

Form 21

ALLEGATION OF REASON FOR OMITTING PARTY

When it is necessary, under Rule 19.03, for the pleader to set forth in his pleading the names of persons who ought to be made parties, but who are not so made, there should be an allegation such as the one set out below:

John Doe named in this complaint is not made a party to this action (because he is not subject to the jurisdiction of this court) or (for reasons stated.)

APPENDIX A

Special Statutory Proceedings under Rule 81.01

Following is a list of statutes pertaining to special proceedings which will be excepted from these rules insofar as they are inconsistent or in conflict with the procedure and practice provided by these rules:

M.S.A. 1949	
48.525 to 48.527	Escheated funds of banks and trust companies
64.32	Quo warranto against fraternal benefit association
67.42	Quo warranto against town mutual fire insurance company
73.09 to 73.16	Actions on orders of State Fire Marshal
80.14 subd. 2	Actions by Commissioner of Securities
80.225	Proceedings by Commissioner of Securities
Chapters 105 to 113	Drainage
Chapter 117	Eminent domain proceedings
160.26*	Drainage of roads
162.20*	Establishment of roads by judicial proceedings
Chapter 166*	Roads or cartways jointly constructed or improved
Chapter 208*	Election contests
Chapter 259	Adoption; change of name
Chapter 277	Delinquent personal property taxes
Chapter 278	Objections and defenses to taxes on real estate
Chapter 279	Delinquent real estate taxes
284.07 to 284.26	Actions involving tax titles
325.21	Quo warranto for violation of statutes regulating trade
462.56	Development plan
501.33 to 501.38	Proceedings relating to trusts
Chapter 503	Townsite lands
Chapter 508	Registration of title to lands
514.01 to 514.17	Mechanics liens
514.35 to 514.39	Motor vehicle liens
Chapter 518	Divorce
540.08	Insofar as it provides for action by parent for injury to minor child
Chapter 556	Action by attorney general for usurpation of office, etc.
Chapter 558	Partition of real estate (except that part of second sentence of 558.02 beginning 'a copy of which')
Chapter 559	Actions to determine adverse claims (except that part of third sentence of 559.02 beginning 'a copy of which')
561.11 to 561.15	Petition by mortgagor to cultivate lands
573.02	Action for death by wrongful act (as amended by Laws 1951, chapter 697)
Chapter 579	Actions against boats and vessels
	Writ of certiorari
	Writ of habeas corpus
	Writ of ne exeat

*NOTE:

Section 160.26, repealed by Laws 1957, Chapter 943, Section 72; subsequent re-enactment, M.S. 1957, Section 160.181, repealed by Laws 1959, Chapter 500, Article 6, Section 13.

Section 162.20, repealed by Laws 1959, Chapter 500, Article 6, Section 13.

Chapter 166, repealed by Laws 1959, Chapter 500, Article 6, Section 13.

Chapter 208, repealed by Laws 1959, Chapter 675, Article 13, Section 1. The law as to election contests is coded in M.S. 1961, Chapter 209.

APPENDIX B(1)

List of Rules Superseding Statutes

Rule	Statute Superseded M.S.A. 1949	
2.01	540.01	
3.01	541.12	
	543.01	
3.02	543.04	1st sentence
4.01	543.02	
4.02	543.03	
4.03		
(a)	543.05	
(b)	540.15	the clause "and the summons may be served on one or more of them"
	540.151	the clause "and the summons may be served on one or more of them"
(c) 1st sentence:	543.08	1st paragraph, 1st sentence of 3d paragraph, and 4th paragraph
(c) 2d sentence ..	543.08	2d clause of 1st sentence of 3d paragraph
	543.09	
	543.10	
(d)	543.07	
(e)	543.06	
	365.40	superseded to extent inconsistent
	373.07	superseded to extent inconsistent
	411.07	superseded to extent inconsistent
4.04	543.11	
	543.12	
	543.15	last clause of 1st sentence
4.042	543.04	2d and 3d sentences
4.043	543.13	
4.044	557.01	3d sentence through "but" following semicolon
4.05	None	484.03, 586.05 and 587.02 contain same provision
4.06	543.14	
4.07	544.30	superseded in part
	544.32	superseded in part
	544.34	superseded in part
5.01	543.16	
5.02	543.09	last sentence
	543.10	last sentence
	543.17	
	543.18	
	557.01	clause following semicolon in 3d sentence
	Dist. Ct. Rule 25	
5.04	544.35	
6.02	544.32	superseded in part
	544.34	superseded in part
6.03	544.32	superseded in part
6.04	545.01	

Rule	Statute Superseded M.S.A. 1949	
6.05	543.18	
7.01	544.01	
	544.03	
	544.06	3d sentence
	544.08	
	544.09	
	546.02	1st sentence
	Dist.Ct. Rule 7 and Rule 22(c)	
7.02	545.01	1st sentence
	Dist.Ct. Rule 20	
8.01	544.02	(2) & (3)
	544.04	(2)
8.02	544.04	(1), (2), and (3)
8.04	544.18	
8.05	544.05	
	544.06	1st sentence
	544.27	
8.06	544.16	
9 Generally	544.24	
	544.25	
	544.26	
9.03	544.23	
9.04	544.20	
9.05	544.19	
9.08	544.28	
10.01	544.02	(1)
10.02	544.06	2d sentence
	544.27	
	Dist.Ct. Rule 22(d)	to extent inconsistent
11	544.15	last paragraph and that part of 1st sentence as follows: "in a court of record shall be subscribed by the party or his attorney, and"
12.01	543.02	1st sentence
	544.29	2d sentence
	546.29	
12.02	544.03	
	Dist.Ct. Rule 7 and Rule 22(c)	
	543.15	2d sentence
	544.04	
	544.06	
	544.08	
	544.18	
12.05	544.10	
12.06	544.17	
12.08	544.03	subd. 3
13.01	544.05	
13.02	544.05	
13.05	544.05	
13.08	540.16	
14.01	540.16	
14.02	540.16	
15.01	544.29	1st sentence
	544.30	
15.02	544.30	
	544.31	
15.04	544.11	
17.01	540.02	
	540.04	
17.02	540.06	
18.01	544.27	
19.02	540.16	
20.01	540.10	
	544.05	
	544.27	
	548.02	(548.20 covers 2d sentence of 548.02)
22	50.12	to extent inconsistent
	227.17	
	228.20	
	544.12	
23.01	540.02	
24.01	50.12	to extent inconsistent
	544.13	
24.03	544.13	
25.01	540.12	to extent inconsistent
25.03	540.12	to extent inconsistent
26.01	597.01	
	597.04	
	597.05	
26.04	597.12	
	597.15	
	597.16	
26.05	597.12	
26.07	597.01	
27.01	598.01	
	598.02	
	598.03	
	598.05	to 598.11, inclusive
28.01	597.01	
	597.04	
28.02	597.01	
	597.04	
29	597.06	
30.01	597.01	
	597.02	
30.03	597.07	
	597.10	
30.05	597.07	
	597.08	
30.06	597.08	
	597.09	
30.07	597.14	
31.01	597.04	
	597.05	
31.02	597.07	
	597.08	
	597.09	
	597.10	
32.01	597.13	
32.02	597.13	
32.03	597.12	
	597.13	
32.04	597.13	
34	603.01	
37.02	597.11	
	603.01	
38.01	546.03	2d sentence
38.02	546.26	
38.03	546.05	1st four sentences
39.01	546.03	1st clause of 3d sentence
39.02	546.03	last clause of 3d sentence
40	546.05	5th sentence
41.01	546.39	
41.02	546.38	
	546.39	
42.01	546.04	1st sentence
42.02	546.04	2d sentence
43.02	595.03	
43.04	595.05	
45.04	597.11	
46	547.03	
47.01	Dist.Ct. Rule 27(a)	
47.02	546.095	
49.01	546.20	
49.02	546.20	
50.02	605.06	1st and 2d sentences
51	546.14	
	547.03	
52.01	546.27	1st sentence
53.01	546.33	1st paragraph
	546.34	
53.03	546.36	
53.04	546.36	
53.05	546.36	
54.03	548.01	
54.04	549.10	
55.01	544.07	
58.01	548.03	
58.02	546.25	2d sentence
	547.023	
	Dist.Ct. Rule 26	
59.01	547.01	
59.02	547.02	
59.03	547.02	
59.07	547.04	
	547.05	
59.08	547.06	
60.01	544.32	
	544.34	
60.02	544.32	
	544.34	
61	544.33	
63.02	542.13	
63.03	542.16	
63.04	542.13	
	542.16	
67.02	544.14	
67.03	576.02	
67.04	485.02	1st sentence
68.01	546.40	
68.02	546.41	
70	557.04	
77.01	546.30	1st sentence
77.04	546.30	3d sentence

APPENDIX B(2)

List of Statutes Superseded by Rules

Statute Superseded M.S.A. 1949		By Rule
50:12	to extent inconsistent	22; 24.01
227.17	to extent inconsistent	22
228.20	to extent inconsistent	22
365.40	to extent inconsistent	4.03(e)
373.07	to extent inconsistent	4.03(e)
411.07	to extent inconsistent	4.03(e)
485.02	1st sentence	67.04
540.01		2.01
540.02		17.01; 23.01
540.04		17.01
540.06		17.02
540.10		20.01
540.12	to extent inconsistent	25.01; 25.03
540.15	the clause "and the summons may be served on one or more of them"	4.03(b)
540.151	the clause "and the summons may be served on one or more of them"	4.03(b)
540.16		13.08; 14.01; 14.02; 19.02
541.12		3.01
542.13		63.02; 63.04
542.16		63.03; 63.04
543.01		3.01
543.02		4.01; 12.01
543.03		4.02
543.04		3.02; 4.042
543.05		4.03(a)
543.06		4.03(e)
543.07		4.03(d)
543.08	all except 2d paragraph and 2d sentence of 3d paragraph	4.03(c)
543.09		4.03(c); 5.02
543.10		4.03(c); 5.02
543.11		4.04
543.12		4.04
543.13		4.043
543.14		4.06
543.15		4.04; 12.01; & generally
543.16		5.01
543.17		5.02
543.18		5.02; 6.05
544.01		7.01
544.02		8.01; 10.01
544.03		7.01; 12.02; 12.08
544.04		8.01; 8.02; 12.02
544.05		8.05; 13.01; 13.02; 13.05; 20.01
544.06		8.05; 7.01; 10.02; 12.02
544.07		55.01
544.08		7.01; 12.02
544.09		7.01
544.10		12.06
544.11		15.04
544.12		22
544.13		24.01; 24.03
544.14		67.02
544.15	last paragraph and part of 1st sentence reading "in a court of record shall be subscribed by the party or his attorney, and"	11
544.16		8.06
544.17		12.05; 12.06
544.18		8.04; 12.02
544.19		9.05
544.20		9.04
544.23		9.03
544.24		Generally
544.25		Generally
544.26		Generally
544.27		8.05; 10.02; 18.01; 20.01
544.28		9.08
544.29		12.01; 15.01
544.30		4.07; 6.02; 15.01; 15.02
544.31		15.02
544.32		4.07; 6.02; 6.03; 60.01; 60.02; 61
544.33		61
544.34		4.07; 6.02; 60.01; 60.02
544.35		5.04
545.01		6.04; 7.02
546.02	1st sentence	7.01
546.03	2d and 3d sentences	38.01; 39.01; 39.02
546.04		42.01; 42.02
546.05	all except last 3 sentences	38.03; 40
546.095		47.02
546.14		51
546.20		49.01; 49.02
546.25	beginning with "or, in its discretion * * *"	58.02
546.26		38.02
546.27	1st sentence	52.01
546.29		12.01
546.30	1st and 3d sentences	77.01; 77.04
546.33	1st paragraph	53.01
546.34		53.01
546.36		53.03; 53.04; 53.05
546.38		41.02
546.39		41.01; 41.02
546.40		68.01
546.41		68.02
547.01		59.01
547.02		59.02; 59.03
547.023		58.02
547.03		46; 51
547.04		59.07
547.05		59.07
547.06		59.08
548.01		54.03
548.02		20.01
548.03		58.01
549.10		54.04
557.01	3d sentence	4.044; 5.02
557.04		70
576.02		67.03
595.03		43.02
595.05		43.04
597.01		26.01; 26.07; 28.01; 28.02; 30.01
597.02		30.01
597.04		26.01; 28.01; 28.02; 31.01
597.05		26.01; 31.01
597.06		29
597.07		30.03; 30.05; 31.02
597.08		30.05; 30.06; 31.02
597.09		30.06; 31.02
597.10		30.03; 31.02
597.11		37.02; 45.04
597.12		26.04; 26.05; 32.03
597.13		32.01; 32.02; 32.03; 32.04
597.14		30.07
597.15		26.04
597.16		26.04
598.01		27.01
598.02		27.01
598.03		27.01
598.05		27.01
598.06		27.01
598.07		27.01
598.08		27.01
598.09		27.01
598.10		27.01
598.11		27.01
603.01		34; 37.02
605.06	1st and 2d sentences	50.02

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Dist. Rule		By Rule
7		7.01; 12.02
20	to extent inconsistent	7.02
22(c) & (d)	to extent inconsistent	7.01; 10.02; 12.02
25		5.02
26		58.02

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Attorney General, term four years, Const. Art. 5 s. 5

Auditor, term four years, Const. Art. 5 s. 5

Governor, term four years. Const. Art. 5. ss. 1, 2, 3, 4

Judicial

District Court, Const. Art. 6 ss 1, 3, 5, 7 to 12

Districts, 10 in number, Judges, 59 in number, terms six years, 2.722

Supreme Court, consists of a Chief Justice and not less than six nor more than eight Associate Justices, terms six years, Const. Art. 6 ss. 1, 2, 7 to 12

Appoints

Clerk of Court, Art. 6 s. 2

Court Reporter, Art. 6 s. 2

Revisor of Statutes, 482.02

State Law Librarian, Art. 6 s. 2

State Board of Law Examiners, 481.01

Supervises

State Board of Law Examiners, seven members, terms three years, 481.01

State Librarian, Art. 6 s. 2

Legislature, consists of a House of Representatives, 135 members, terms two years; and a Senate, 67 members, terms four years, Const. Art. 4 ss. 24, 25; meets in a Joint Convention to elect the 12 members of the Board of Regents, University of Minnesota, terms six years, Const. Art. 8 s. 4, Territorial Laws 1851, Chapter 3

Lieutenant Governor, term four years, Const. Art. 5 s. 3

Railroad and Warehouse Commission, consists of three commissioners, terms six years, 216.01, 216.02

Secretary of State, term four years, Const. Art. 5 s. 5

Treasurer, term four years, Const. Art. 5 s. 5

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Agriculture, Department of; commissioner, term four years, 17.01

Business Development, Department of; commissioner, term four years, 362.07, 362.09

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Education, Department of; board of education of seven members, terms seven years, 121.02

Employment security, department of; commissioner, term six years, 268.12

Health, Department of; state board of health of nine members, terms three years, 144.01

Highways, Department of; commissioner, term four years, 161.03

Labor and Industry, Department of; Industrial Commission composed of three commissioners, terms six years, 175.02

Liquor Control Commissioner, term four years, 340.08

Public Examiner, Department of; public examiner, term six years, 215.01, 215.02

Public Welfare, Department of; commissioner, term six years, 245.03

Surveyor General, term two years, 91.01

Taxation, Department of; commissioner, term six years, 270.02

Veterans Affairs, Department of; commissioner, term four years, 196.01, 196.02

Boards and Commissions whose members are appointed by the governor, with advice and consent of the Senate

Adult Corrections Commission; chairman and four other members, terms six years, 637.02

Athletic Commission; five commissioners, terms three years, 341.01, 341.02

Civil Service Board; three members, terms six years, 43.03

Discrimination, State Commission Against; up to nine members, terms of five years, 363.04

Education, Board of; seven members, terms seven years, 121.02

Great Lakes-St. Lawrence Tidewater Commission; three members, Laws 1919, Res. No. 11

Health, Board of; nine members, terms three years, 144.01

Industrial Commission; three commissioners, terms six years, 175.02

Livestock Sanitary Board; five members, terms five years, 35.02

Parole and Probation, Board of; chairman and two other members, terms six years, 637.02

Soldiers' Home Board; nine trustees, terms six years, 198.01, 198.06

State College Board; eight directors and commissioner of education, terms of directors four years, 136.02, 136.12

Tax Appeals, Board of; three members, terms six years, 271.01

Upper Mississippi and St. Croix River Improvement Commission; five citizens of state, Laws 1927, Res. No. 14

Veterans Service Building Commission; one member from each congressional district and two members at large, Laws 1945, c. 315 s. 2

Water Resources Board; three members for six year terms and two for three and five year terms, respectively, 105.71

Youth Conservation Commission; five membors, including a deputy commissioner of corrections and four others, appointed for terms of six years, 242.02, 242.03, 242.04

Examining boards whose members are appointed by the governor

Abstracters; Board of Examiners, five members, terms six years, 386.63

Accountancy; five members, terms five years, 326.17

Architects, Engineers, and Land Surveyors, registration for; nine members; terms four years, 326.04

Barber Examiners; three members, terms three years, 154.22

Basic Sciences, of examiners in the; two full-time professors, one doctor of medicine and surgery, one doctor of osteopathy, one doctor of chiropractic, terms six years, 146.03, 146.04

Chiropractic Examiners; five members, terms five years, 148.02, 148.03

Dental Examiners; five dentists, terms three years, 150.01

Electricity; seven members, terms five years, 326.24

Hairdressing and Beauty Culture Examiners; three members, terms three years, 155.04, 155.05

Medical Examiners; seven resident physicians, terms seven years, 147.01

Nursing, Board of; seven members, terms five years, 148.181

Optometry; five optometrists, terms three years, 148.52

Osteopathy; five osteopathic physicians, terms five years, 148.11

Pharmacy; five pharmacists, terms five years, 151.02, 151.03

Podiatry Examiners and Registration; five members, terms five years, 153.02
Psychologists, Board of Examiners; seven members, terms seven years, 148.79
Veterinary Examining Board, five qualified veterinarians, terms five years, 156.01
Watchmaking, Examiners in; five members, terms four years, 326.541

Boards and commissions partly or wholly ex officio

Archives Commission, Minnesota State; state auditor, attorney general, commissioner of administration, public examiner, director of state historical society, 138.13, 138.14
Armory Building Commission, Minnesota State; corporation with adjutant general and general officers of the line of the national guard, 193.142
Compensation Insurance Board; commissioner of insurance, one member of industrial commission, a person to be appointed by the governor, 79.02
Executive Council; governor, attorney general, state auditor, state treasurer, secretary of state; 9.011
Geographic Board; commissioner of conservation, commissioner of highways, director of Minnesota Historical Society, 354.01
Great Lakes Commission; two state senators, two state representatives, 1.22
Historic Sites and Markers Commission; director of state parks, commissioner of highways, director of Minnesota Historical Society, 138.08
Insurance Board, State Employees; governor, state treasurer, the commissioner of insurance and two state employees, terms of four years, 15.35
Interstate Cooperation, Minnesota Commission on; 15 members, senate committee on interstate cooperation, house committee on interstate cooperation, governor's committee on interstate cooperation, 3.29
Investment, State Board of; governor, treasurer, auditor, attorney general, a commissioner appointed by board of regents of University of Minnesota from its members, 11.01
Iron Range Resources and Rehabilitation Commission; seven members, three state senators, three state representatives, commissioner of conservation, terms two years except commissioner, 298.22
Judicial Council; one justice or former justice of supreme court, two judges or former judges of district court, one judge or former judge of probate, seven persons appointed by governor, one of whom to be a municipal court judge and four of other six to be attorneys at law, terms of appointed members three years, 483.01, 483.02
Land Exchange Commission; governor, attorney general, state auditor, Const. Art. 8 s. 8, 94.341
Land Use Committee; governor, commissioner of conservation, commissioner of agriculture, commissioner of education, commissioner of highways, commissioner of taxation, 92.33
Legislative Advisory Committee; chairman of senate committee on taxes and tax laws, chairman of senate committee on finance, chairman of house committee on taxes and tax laws, chairman of house committee on appropriations, 3.30
Legislative Research Committee; one state senator and one state representative from each Congressional district, term interim between regular legislative sessions (two years), 3.31
Municipal Commission; three members appointed by the governor, terms of four years, 414.01
Pardons, Board of; governor, chief justice of supreme court, attorney general, 638.01
Poultry Improvement Board; acts in advisory capacity with the commissioner of agriculture, members, chief of the poultry division of the college of agriculture, University of Minnesota; secretary and executive officer of the state livestock sanitary board; six experienced poultrymen to be appointed by the governor for terms of three years, 29.011
Publication Board; commissioner of administration, secretary of state, attorney general, 15.046
Retirement Association, Highway Patrolmen; state highway patrol chief, state treasurer, one highway patrolman to serve for a term of two years, 172.02, 172.03
Retirement Board, Public Employees; state auditor, insurance commissioner, state treasurer, nine public employees elected by members of public employees retirement association for terms of three years, 353.03
Retirement Board, State Employees; state auditor, state treasurer, insurance commissioner, four state employees elected by members of state employees retirement association for terms of four years, 352.03
Retirement Fund, State Police Officers; state treasurer and three members of the association, for terms of three years, 352A.04
Retirement Fund, Teachers, Board of Trustees of; commissioner of education, state auditor, commissioner of insurance, four members of fund, 135.03
Rural Credit, Conservator of; commissioner of banks, 41.02
Soil Conservation Committee; director of the agricultural extension service of University of Minnesota, dean of the department of agriculture of University of Minnesota, commissioner of conservation, commissioner of agriculture, five bona fide farmers appointed by the governor for terms of five years, 40.03
South-Dakota-Minnesota Boundary Waters Commission; director of game and fish commission of South Dakota, commissioner of conservation of Minnesota, engineer appointed by governors of two states for four years, 114.01
State Claims Commission; six members, three state senators, three state representatives, 3.66
State Employees Insurance Board; governor, state treasurer, commissioner of insurance, two state employees elected by state employees for terms of four years, 15.35
State Mapping Advisory Board; commissioner of aeronautics, commissioner of agriculture, commissioner of business research and development, commissioner of highways, commissioner of iron range rehabilitation, commissioner of taxation, director of the University of Minnesota geological survey, one member appointed at large by the governor, 84.54
Tri-state Waters Commission; nine members, three each from North Dakota, South Dakota, Minnesota, 114.09
Uniform State Laws in the Several States, Commission on; three persons to be appointed by governor, attorney general, chief justice of supreme court for two years, 3.251
Voting Machine Commission; attorney general, two master mechanics or graduates of school of mechanical engineering one to be appointed by governor and other by attorney general for four years, 206.08
Water Pollution Control Commission; secretary and executive officer of state board of health, commissioner of conservation, commissioner of agriculture, secretary and executive officer of state livestock sanitary board, three members at large appointed by governor for six years, 115.02

Independent state agencies

Society for the Prevention of Cruelty; formed in 1869; constitutes state bureau of child and animal protection, 343.01, 343.04
State Agricultural Society; State Fair Board, 37.01, 37.04
State Art Society; governor, president of state university, eleven members appointed by goveror for four years, 139.01, 139.02
State Historical Society; formed in 1849; twelve members elected each year for three year terms, and attorney general, auditor, governor, lieutenant governor, secretary of state, treasurer ex officio
State Horticultural Society; formed in 1866, 37.03