RAMSEY COUNTY
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Ramsey County Housing and Conciliation Court Self Help Center

Conciliation Court Manual

Revised Edition 2020

First Edition—2009 — Minnesota Justice Foundation
Second Edition—2017—Ann Arntson, Ramsey County Law Library
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Ramsey County Conciliation Court Contact Information

Conciliation Court
Ramsey County Courthouse
15 W. Kellogg Blvd, Room 170
St. Paul, MN 55102
(651)266-8253

Hours: 8:00 am-4:30 pm
Monday-Friday
Closed on legal holidays.

Information about Conciliation Court

The information contained in this document is not intended as legal advice but as a general guide to you to explain the legal process. If you do not understand any of these procedures, consult an attorney. This office cannot give legal advice.

What is conciliation court?
Minnesota statute 491A.01 created the conciliation court - also called small claims court. This court allows citizens to bring their legal claims to court without expensive costs or complicated legal procedures.

Do you have a claim to file in conciliation court?
You can file a claim in conciliation court for an amount up to $15,000.00, or $4,000.00 if the claim involves a consumer credit transaction. This is the limit set by law. You cannot file a claim involving title to real estate, libel, slander, class actions or medical malpractice in conciliation court.

Conciliation court will not accept a claim that exceeds the dollar limits as set forth above. If you reduce your claim to the limit of conciliation court, you cannot claim more later. This rule may apply to any other claims related to the same incident. Obtaining a judgment in conciliation court may prevent you from bringing any other claims based on the same transaction or occurrence.

In deciding whether to file your claim, be aware that obtaining a judgment in conciliation court does not guarantee payment. As you attempt to collect the judgment, you will have out of pocket expenses for filing fees, transcription costs and other costs of collecting a judgment.

Note: Only a business or government entity may be represented in conciliation court by a someone who is not a lawyer (a "nonlawyer"). A power of attorney form does not authorize a nonlawyer to file a claim, appear, or in any other way "represent" a natural person in conciliation court.

Where do you file a claim in conciliation court?
The person against whom you are making a claim is called the defendant and you must file your complaint in the county where the defendant lives. You may, however, seek recovery for dishonored checks in the county where the check was issued. You may make a claim for unpaid rent or return of a security deposit in the county where the rental property is located. You may sue corporations in the county where their business office or branch office is located. **IT IS YOUR RESPONSIBILITY TO DETERMINE THE CORRECT COUNTY FOR FILING YOUR CLAIM.**

How do you file a claim in conciliation court?
If you are filing the claim, you are the plaintiff in the action. The person you file against is the defendant. The form for filing your claim is available from any court administrator's office or on-line at www.mncourts.gov/forms. If you have difficulty completing the form, you may contact court administration for assistance. You must have the following information:

- Your name and address
- The name and address of the defendant

- Home address if the defendant is an individual
- The amount of your claim
- The reason for the claim and the date your claim arose

You must sign the claim under penalty of perjury and pay the current filing fee. By signing the claim under penalty of perjury, you are stating that the information in the claim is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth. The amount of the filing fee will be added to your claim.

After you have filed your claim, it must be served on the defendant. For cases under and up to $2,500.00, the court administrator's office will serve the claim on the defendant by first class mail or by any electronic means of delivering notice as authorized by Rule 14 of the General Rules of Practice for the District Courts. The summons shall include the date and time that the case will be heard. You will also receive a notice from the court as to the date and time of the hearing. For claims over $2,500.00 or if service cannot be made by first class mail, the court administrator's office will give you instructions as to how service must be performed. Many cases settle when the defendant receives notice of the hearing.

It is your responsibility to inform the court administrator in writing if you and the defendant settle your case. If you and the other parties agree on a settlement prior to the hearing, each party who has made a claim or counterclaim must promptly tell the Court in writing that the claim or counterclaim has been settled and that it may be dismissed. You may notify the court by completing and filing with the court the Notice of Settlement section on the Statement of Claim form.

What happens if a defendant files a claim against you?
The defendant may file a claim against you. This is called a counterclaim. The defendant must file the claim at least 7 days before the date set for a hearing.

The defendant will pay a filing fee and the court administrator will notify you if a counterclaim is filed. The counterclaim will be heard at the same date and time as your claim.

If the counterclaim is more than the dollar limits as set forth above, your claim will be transferred to district court and you will be notified if a transfer is needed. If the defendant then fails to file the counterclaim in district court after giving notice of intent to do that, you may have your claim reinstated in conciliation court. You may do this any time after 28 days and before 3 years expire by filing an affidavit with conciliation court. The affidavit must say that the defendant has not served you with a district court summons stating his counterclaim.

What if the hearing date is changed?
The court administrator may change the hearing date if there is good cause for a continuance, but only if you request a different hearing date at least five days prior to the scheduled hearing. The court administrator may change only one hearing date per party. All other requests for a change of hearing date must be determined by the judge. All parties will be notified by the Court of any

new hearing date. The Court in its discretion may assess costs of not more than $50.00, either absolute or conditional, to the other party as a condition of granting an order for a continuance of any case.

How do you prepare for the hearing?
Conciliation court hearings are informal, but you must be prepared to present your case. Attorneys are only allowed to represent parties in conciliation court with permission of the court. All parties and witnesses who appear will testify under oath. The witnesses should be present and ready to testify. If a witness is reluctant to appear, you may get a subpoena to compel them to appear. You can get a subpoena from the court administrator's office. You will need one subpoena for each witness you want to testify. There is a fee for each subpoena requested. Written statements and affidavits of persons not present in court have very little value.

If you plan to submit any documents, photos, etc. to the judge for consideration, YOU MUST BRING 2 EXTRA COPIES TO THE HEARING. If you request court administration to make your copies when you arrive for the hearing, you will be charged for copies. You should also bring to court all other evidence, such as receipts, repair bills, estimates, and other items to help prove your claim. If the defendant or some other person has documents relating to your claim that they will not give to you, you can get a subpoena to require the person to provide the documents.

Before you go to court, prepare a list of facts you wish to present. Organize your presentation as clearly and completely as possible so you will not forget important facts and details.

On your assigned court date and time, prior to calling your case and hearing testimony, the judge may ask you to speak to the other parties in your case to determine if you can reach any agreements.

If you have exhibits or informational items related to your case which fall within the hazardous exhibit policy, you are required to properly secure those items before offering it to the judge for inspection. Check with court administration for the complete policy regarding hazardous exhibits. If you have exhibits which are bulky, you may not be allowed to enter through the security system and should consider other options which can include taking photographs of that exhibit for the judge to review.

What happens if you do not appear for the hearing?
All parties must appear. Failure of defendant to appear at the hearing may result in a default judgment being entered for the plaintiff. Failure of the plaintiff to appear may result in dismissal of the action or a default judgment being entered in favor of the defendant on any counterclaim that has been filed.

What happens after the hearing?
After hearing the evidence, the Judge will either issue an order right away or take the case under advisement and issue an Order at a later date. The parties will be notified by mail or by electronic means as authorized by Rule 14 of the General Rules of Practice for the District Courts of the Judge's decision. If a party changes his or her address, the Court must be notified.

The judgment will not become effective until 24 days after mailing the notice or 21 days if notice

was sent electronically. This 24-day period (or 21-day period if notice sent electronically) allows you to appeal or make a motion to vacate the judgment. The court may vacate the judgment and order a new hearing if a party that did not appear has a good reason for not appearing. Before it grants a new hearing, the court may require the party who did not appear to pay costs to the other party.

Got a question about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the MN Courts Self-Help Center at 651-435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

Paying, Collecting, and Appealing a Conciliation Court Judgment

How do I pay the judgment?
You must make arrangements to pay the judgment directly to the creditor (the party you owe money to). Remember judgment records are public and credit bureaus routinely take information from them. If your judgment is not paid before it becomes final, it may have an adverse affect on your credit rating. If you make good faith efforts to pay the judgment and are not successful or the creditor refuses to accept your payment, you may bring a motion to allow payment to be made to the court administrator. You may pay all or any part of the judgment to the court administrator instead of paying the creditor directly **only** if the court issues an order that allows you to make payments to the court administrator.

When you pay the creditor, obtain a statement of payment called a Satisfaction of Judgment from the party you paid and file it with the court. If this is not done, your record will show an unsatisfied judgment, which may affect your credit rating.

How do I collect a conciliation court judgment?
Although a case was decided in your favor, it is not always easy to collect a judgment. You cannot collect assets that a person or business does not have. The collection process will be worthwhile only if you can locate collectable assets. Once a judgment is entered, the judgment is enforceable for 10 years from the date of entry.

Conciliation court is not a collection agency and cannot assist you in locating assets of the other party. You can, however, try to collect the judgment yourself if it has not been paid by the date indicated on the judgment notice, and if an appeal has not been filed. Here are a few tips on how you can locate the debtor and/or their assets:

- You may be able to locate the debtor's bank by looking at any canceled checks that you might have written to the debtor.

- You can find out whether the debtor has a motor vehicle registered under his/her name, or the name of the lender that the debtor is doing business with, by submitting a record request form to the Minnesota Driver and Vehicle Services. The form is available at DVS offices or on the web at: http://www.dps.state.mn.us/dvs/PDFForms/DVSFormFrame.htm.

When your judgment is final, the appeal time has expired, and the judgment debtor has not paid you, you may choose to have the judgment enforced by following these steps:

1. Request a transcript of your judgment from conciliation court. File the transcript of judgment with district court. To docket your judgment, which will allow you to have the judgment enforced, you must file an Affidavit of Identification. Ask court administration for an Affidavit of Identification form, or go to www.mncourts.gov/forms. Be prepared to pay any statutory fee for transcribing the judgment. These fees will be added to the judgment and will be collected from the judgment debtor if assets are found. Checks should be made out to the "Court Administrator." Your judgment will then be entered and docketed in district court. This creates a lien against abstract real estate owned by the debtor in this county. You may wish to file a lien against torrens real estate that the

judgment debtor owns by contacting the county recorder of the county where the real estate is located. A docketed judgment also affects the judgment debtor's credit rating.

2. You may request court administration to issue a Writ of Execution if you know where the debtor banks or where the debtor works. There will be a fee charged for the writ. If you do not know either of these you are not ready for an execution. The execution must be issued to the county where the bank or the employer is located. The court administrator's office will send the execution to you and you are to take it to the sheriff of that county for service. The sheriff will charge a fee.

3. If you do not know where the debtor works or banks, you may file a Request for Order for Disclosure. There is a filing fee for each involved debtor's name. The court administrator's office will issue an Order for Disclosure and send it to the debtor along with a Financial Disclosure form. This order requires the debtor to disclose all non-exempt property and financial information to you within ten (10) days from receipt of the order. If the Financial Disclosure form is served upon you by mail, three (3) days are added to the ten (10) days to complete service. It is your responsibility to supply the court with a current address for the debtor.

If a completed Financial Disclosure form is received from the debtor, you can then decide what options are available for collection.

If no answer is received, you can complete an Affidavit in Support of an Order to Show Cause, and schedule a court hearing before a judge. When the hearing is scheduled, this office will then issue an Order to Show Cause. A judicial officer may not issue an Order to Show Cause if service of the Financial Disclosure was undeliverable upon the judgment debtor. It is your responsibility to have the debtor served with the Order to Show Cause. The sheriff or any party who has no financial interest in the judgment can serve this order. It must be served on the debtor personally. **It cannot be left at his/her residence with anyone else.**

The Order to Show Cause requires the debtor as well as the creditor to appear at the court hearing. At the hearing, the debtor will be instructed to complete the Financial Disclosure form or give the judge a valid reason for not doing so. If the debtor fails to appear at this hearing, the judge may issue an order for a Writ of Attachment. When the Writ of Attachment is issued, you will be required to furnish a physical description of the debtor.

4. If you wish to have the cost of collection added to your judgment after an unsuccessful attempt to collect, you may need to file an affidavit stating the costs and requesting those costs be added to your judgment. Please attach a copy of your receipt from the sheriff to your affidavit.

5. If the debtor pays the judgment in full it is your obligation to provide the debtor with a Satisfaction of Judgment. This form can be obtained through this office or at any legal stationery store. A Satisfaction of Judgment must be filed with the court and a filing fee must be paid. This must be done within 10 days if paid in cash or within 30 days for another type of payment.

6. If the judgment is for property damage sustained in an auto accident with an uninsured driver, you may wish to ask the Commissioner of Public Safety to suspend the driving privileges of the driver. Conciliation court staff can help you do this after your judgment becomes final. There is a fee for the certified copy that must be sent to DPS to suspend driving privileges.

If the sheriff or attorney is unable to collect, or if you have determined that there are no assets on which you can collect, it does not mean you will never collect your judgment. A judgment in conciliation court is valid for 10 years and may be executed on at any time during those 10 years. This is important because the debtor may, at some future time, have collectable assets. The fact that an unpaid judgment may affect the debtor's credit rating could result in voluntary payment at a later time.

How do you appeal a judgment of the conciliation court?
Appeal procedures are more complex than conciliation court rules. Although it is not required, it is suggested that the appealing party be represented by an attorney. Court administration staff are not attorneys and cannot practice law. Therefore, they cannot assist you in preparing your appeal. Some forms are available at the court administrator's office or online at www.mncourts.gov/forms.

Any party who appeared at the conciliation court hearing and is dissatisfied with the conciliation court judgment may appeal to the district court. To do this, you must file a **Demand for Removal**, an **Affidavit of Good Faith**, and an **Affidavit of Service** with the court administrator within 21 days of the date the judgment was mailed or sent electronically. The appealing party must pay an additional fee. The district court is more formal than conciliation court and its proceedings are governed by the Minnesota Rules of Civil Procedure.

If you did not appear and a default judgment was entered, you will have to get the judgment vacated. Read your judgment notice carefully.

What happens upon an appeal?
Filing an appeal (removal) means a completely new trial will take place. You may file a **Jury Trial Demand** if you wish the appeal be heard before a jury. An additional fee is required for a jury trial demand. Attorneys may represent both parties. If the appealing party is a corporation, the Demand for Removal must be signed by the party's attorney. You should not rely on anything that was said or that happened at the conciliation court trial. Again, you should prepare to present your case, have your witnesses ready to testify, and have all your other evidence available.

If you appeal and do not win, you may have to pay costs to the other party.

Helpful materials may be found at your public county law library. For a directory, see http://www.lawlibrary.state.mn.us/cllppubdir.rtf. For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

Conciliation Court

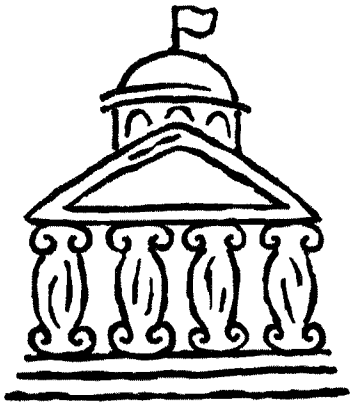
What is Conciliation Court?

Conciliation Court is sometimes called "People's Court" or "Small Claims Court." It is for simple court cases for disputes up to $15,000. If the case is to collect a consumer debt, like a credit card, it is limited to $4,000. You don't need a lawyer. Every county has Conciliation Court.

What cases go to Conciliation Court?

Here are some examples:

- You buy a used car, and the seller lied about what shape it was in.
- You worked for someone who won't pay you.
- Your old roommate owes you money.
- Your neighbor damaged your property.
- Your old landlord didn't make repairs, and you want some of the rent back.
- Your landlord won't return your security deposit.
  See our fact sheet, *Security Deposits*.



Should I sue in Conciliation Court?

- Try to work the problem out with the other person first. Send a letter saying what that person owes you and why. Date the letter. Keep a copy. You can say you might file a lawsuit. Ask that they get back to you within 2 weeks. Don't say angry or mean things – just state the facts. Remember that what you write in the letter may be read by a judge.

- Think about "mediation." Mediation is a way to settle the problem out of court. Mediators are trained to get the facts of a dispute and help the people involved work out an agreement. They help write up any agreement so what each person needs to do is clear. The other person in the dispute has to agree to mediation. You can ask in your letter if s/he will try mediation.

  For a mediation program in your area call First Call for Help statewide at 211 or (800) 543-7709 from a cell phone. You can also check the state court website for info and a list of mediators: www.mncourts.gov/Help-Topics/AlternativeDisputeResolution.

- If you have more than one claim, talk to a lawyer before you sue. You may not be able to sue separately for different things that happened in the same situation.

  For example – you are in a car crash, and you sue in Conciliation Court just for the damage to the car. By suing only about the car, you may lose the right to sue in another case for injuries if you were hurt in the crash.

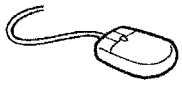
How do I file a case?

- File your case in Conciliation Court in the county where the person you are suing lives. If it is a business, sue them in the county where they have an office.

  If you sue your landlord for a security deposit, repair problems, a lock-out, or for renting you a condemned property, you can file your case in the county where the property is located **or** where the landlord lives.

- Your county courthouse has the form you need. It is called "Statement of Claim and Summons."

  You can find it online. Go to www.mncourts.gov.



→ Click on "Get Forms" on the menu
→ Click on "Conciliation/Small Claims Court"
→ Click on "Statement of Claim and Summons"

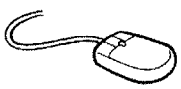
If you want the court's instructions along with the form, or if you need an "Affidavit of Service" form, click on the "Filing a Conciliation Court Claim" packet in the list.

- Fill in the "Statement of Claim and Summons." **Do not sign** until you are in front of a notary. There are notaries at the courthouses.

- The filing fee is about $70. The fee is different in different counties.

  If you have a low income, you don't have to pay. Bring proof of your income. Ask the court clerk for a court fee waiver or IFP form.

  You can create a completed IFP form online. Go to www.LawHelpMN.org/formhelper.



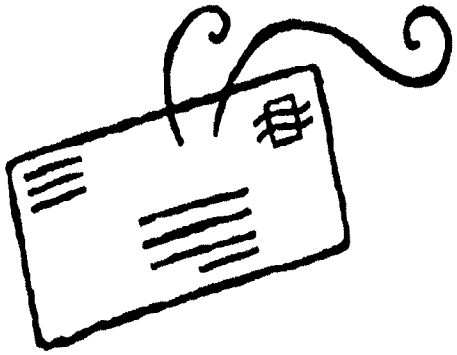
→ Click on "Debts, Fees, Deposits"
→ Click on "Court Fee Waiver (IFP)"
→ Follow the step-by-step questions

- **If your claim is less than $2,500** the court will mail a copy of your "Statement of Claim and Summons" to the other side. You need the full name of the person or company you are suing and their address. To find the legal name of a business, contact the Secretary of State at (651) 296-2803, or online at www.sos.state.mn.us.

  You can also write to them for the information at:

  Secretary of State
  60 Empire Drive, Suite 100
  St. Paul, MN 55103

- **If your claim is more than $2,500** you have to mail a copy of the "Statement of Claim and Summons" to the other side by certified mail. You have to mail it within 60 days. Ask at the post office for certified mail and a return receipt. When you get the return receipt back in the mail, make sure you hang on to it to show that you mailed the copy in case you need it for proof.

  You also have to fill out an "Affidavit of Service" to show you mailed a copy to the other side. You can get this form the courthouse or online. This form is in the conciliation court packet from the court talked about above. Give the "Affidavit of Service" to the court clerk.

- Your court date is usually 6 weeks to 2 months after the date you file. But sometimes it can take as long as 5 months, depending on the county.

What is a counterclaim?

The person you sue (defendant) can file a counterclaim, saying that you owe **them** money. The court will hear the counterclaim at the same time as your claim.

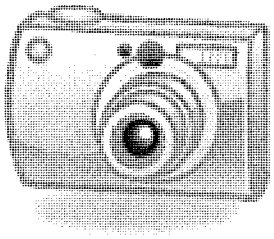
What is a settlement?

Many cases are settled by an agreement before court. You can even settle at the courthouse right before your trial. Think about a fair compromise and suggest it to the other side. Even if you win in court, you might have trouble collecting the money. So a settlement that gives you some money right away may be smart.

Put any agreement in writing! Both parties must sign and date it. **Take the agreement to court on your hearing date,** and have the court make it into an order. This will help protect you in case there is a disagreement later.

How do I get ready for court?

- Write a list of everything you need to say.
- Talk to witnesses and ask them to come to the hearing. Testimony in court is much better than a written statement from them. Judges may not take a written statement from witnesses. If an important witness won't come, ask the court clerk for a "subpoena." A subpoena is an order to come to court or bring evidence to court.
- If the defendant has papers or evidence they won't give you, ask the court clerk about a subpoena for evidence.
- Practice explaining what happened to a friend as if you are in court.
- Bring all your evidence to court: photos, letters, receipts, estimates, leases. You need to prove your case and show evidence about the amount of money you should be paid.



- Go watch a Conciliation Court hearing before your court date to see how they work.
- At the hearing, be **very** polite to the judge and the defendant. **Don't interrupt** when others talk. Don't get mad at what the defendant says. **Your case depends on the impression you make!**

For more information go to the Attorney General website at
http://www.ag.state.mn.us/Consumer/ConCourt/Default.asp

Find more fact sheets at www.lawhelpmn.org/LASMfactsheets

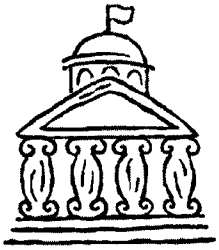
Find your local legal aid office at www.lawhelpmn.org/resource/legal-aid-offices

What to Do If You Are Sued

Are you being sued in Conciliation Court or District Court?
If it is **Conciliation Court**, the papers come in the mail from the court if the claim is under $2,500. If it is over $2,500, the papers come by certified mail from the person suing you. The court papers tell you the time and date of the hearing and have a statement about why you are being sued.

If it is **District Court,** the papers usually come in person from a process server. This could be a sheriff's deputy or a lawyer. The papers need to be "served." Most often this means that the papers are handed to you or someone in your household. That person needs to be "of suitable age and discretion." There are no set rules about age but it generally means someone over the 14 who doesn't have any disabilities that would keep them from understanding or getting the papers to you. Sometimes you get the papers in the mail and need to sign a waiver of personal service. The waiver of personal service comes with the papers. The papers don't have a court date on them.

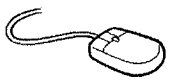
Conciliation Court



Conciliation Court is a small claims court for cases up to $15,000. Consumer credit cases, like credit card debt, are limited to $4,000. You don't need a lawyer in Conciliation Court.

Answers and Counterclaims
You do not need to file a written Answer in Conciliation Court to the claim against you. But, if you think the person suing you actually owes money to you, you need to file a "Counterclaim" at least 5 working days before the court date. Go to the court and tell the clerk you need a Counterclaim form to fill out.

You can also find the forms online. Go to www.mncourts.gov and:



→ Click on *Get Forms*
→ Click on *Conciliation / Small Claims Court*
→ Click on *Statement of Counterclaim and Summons*

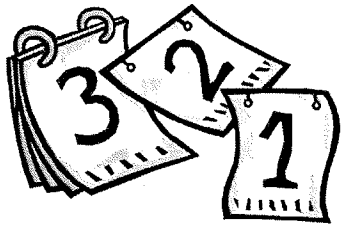
NOTE: if you are not sure what you need it may be best to click on the *Responding to a Conciliation Court Claim* packet. Make sure you read the instructions.

Settlements and Getting Ready for Court

Settlements and how to get ready for court are talked about below in the District Court section. They are the same for Conciliation Court.

In Conciliation Court you can ask the court clerk for a subpoena to make the other side bring documents to court. Ask for this well before the court date.

If you lose in Conciliation Court, you have 20 days from the date of the order to ask for an appeal trial in District Court. Call a lawyer right away for help because District Court can be complicated. You can be ordered to pay the other side's costs if you ask for a new trial and lose.



See our fact sheet *Conciliation Court*.

District Court

District Court is much more complicated than Conciliation Court. If possible, see a lawyer right away. If you don't have much income, call your legal aid office.

If you are being sued in District Court, you get papers called a "Summons and Complaint." If you want to fight the claim you have to "Answer" the Complaint.

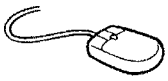
The "Answer"

If you have a defense to the claims in the Complaint, you must "Answer" the Complaint within 20 days of the day you got the papers. An Answer is your legal response to the court papers you get.

If you disagree with the Complaint, it is **very** important that you send a **written** Answer. There are 2 ways to do this:

Online:

You can create an Answer online. Go to: www.lawhelpmn.org/forms.



→ Under *Debts, Fees and Deposits*

→ Click on *Answer a "Summons and Complaint" - Debt Collector Lawsuits*

This is a step-by-step interview that lets you print out a completed Answer.

By Hand
Your Answer can be in the form of a letter. Make sure you put identifying information from the Complaint into your Answer. Like the names of the parties or a case number if there is one.

Your Answer must respond truthfully to each claim in the Complaint. There are 3 possible responses to each claim:

1) I admit this claim is true.
2) This claim is not true.
3) I don't know if this claim is true or false.

It is NOT a defense to say you can't afford to pay a debt you are being sued for.

If you think the other side owes you money, write why as part of your Answer and label it a Counterclaim.

IMPORTANT: A phone call to the other party or lawyer is **not** a legal Answer ever.

When you are done, mail or deliver the Answer to the party who is serving you or their lawyer. That information is in the original Summons and Complaint. Make sure you write down the date you mailed or delivered it. Keep the original copy of the Answer, you might need to file it in court.

What if I don't send an Answer?

If you do not Answer the Complaint you lose the case by default and a judgment is entered against you.

If you wanted to do an Answer but the 20 days has passed, you should still send an Answer as soon as you can.

If you were sued and lost because you did not respond on time, and you have a defense to the lawsuit, see a lawyer right away. Sometimes you can get the case re-opened.

What happens after I send an Answer?

After you answer, you may get other papers. Respond to ALL papers even if you answered the Complaint. These papers can be called "Interrogatories," "Requests for Documents," and/or "Requests for Admission." **Do not ignore these papers. You must answer them.** Make sure your answers to questions are true and complete. Keep the originals for yourself and mail copies to the other side.

You can try to settle your case

For example, you can agree to pay the other side some money, but not as much as they asked for. You might set up a payment plan. Call or write the other side with your proposal. Keep copies of anything you send. Do not make a deal you can't follow through with.

If both sides agree to it, the parties can all meet with a mediator before the court date. Mediators are trained to help settle disputes. There might be a fee.

To find mediators:

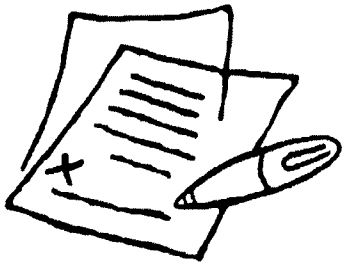
- Check Community Mediation Minnesota at https://communitymediationmn.org.
- You can also call 2-1-1 statewide, text them your zip code at 898-211 or chat online at www.211unitedway.org.
- The state court website also has info and a list of mediators: www.mncourts.gov/Help-Topics/AlternativeDisputeResolution.

Put any agreement in writing! Both parties must sign and date it. Even though you agree to a deal you need to get the agreement to the court, so the court can make it into an order. This helps protect you in case there are problems later.

If you don't agree or if you didn't try to make a settlement, you have to go to court.

Getting ready for court:

- Give yourself plenty of time before your court date to get ready.
- Be sure you know what any court hearing is about – read the papers that were sent to you about the hearing. You may have to go to court for a hearing before the actual trial when witnesses will testify.



- Watch a court hearing and trial to see how they work.
- Write down a list of everything you need to say.
- Talk to witnesses and ask them to come to the trial. A witness coming to court is much better than a written statement from them. The judge may not even look at a written statement. If an important witness does not want to come to the trial, ask the court clerk for a "subpoena." A subpoena is a court order that says the witness has to go or bring evidence to court.
- If you know the person suing you has papers or evidence they do not want to show you before court, you can send them your own "Interrogatories" and "Requests for Admissions and Documents."

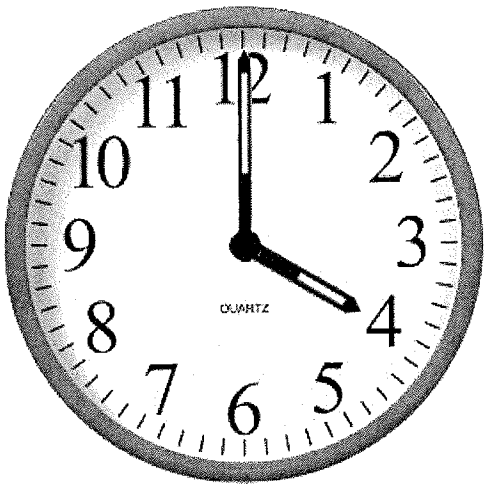
- Practice stating your case to a friend as if you are in court.
- Make sure you have copies of your answer and any other papers you responded to. Organize all your papers in labeled folders.
- Gather all your evidence to bring to court: photos, letters, receipts, estimates, leases. You need to prove your case and show evidence to support your case.
- Call the court administrator before a hearing if you or a witness needs an interpreter.
- If you are not using a lawyer, go to your county law library to get more information about the court process and about the laws involved in your case. If you have a trusted friend, relative, or adviser, ask them to help you through the process.

Go to Court on Time

If you don't, you lose automatically. If you can't go to the hearing or trial, call the court right away and ask to change it. They might give you a different date.

If you miss court because you had an emergency or never got the papers you can ask for another hearing by going to the court. You have to show why you were not at the hearing. Bring proof of the reason you did not make it.

For example, if you missed the hearing because you were in the hospital, bring your hospital record. If you never got the papers and found out about the case later, tell the court. Often you need a lawyer to reopen a case.



At the Hearing

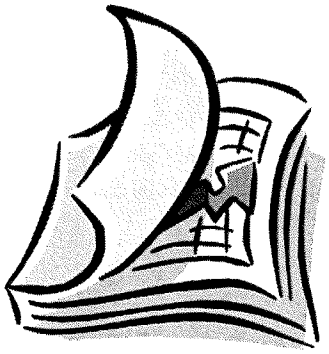
When you are at the hearing, be **very** polite to the court and the other side. **Don't interrupt** when others are talking. Don't get mad. Talk directly to the judge. **Your case can depend on the impression you make!**

If You Lose in District Court

If you lose your case in District Court, you can try to appeal but appeals are usually not successful. A lawyer's help is needed to appeal. If you lose, the other side gets a Judgment. A Judgment is an Order saying that you have to pay them money and/or to do something.

If you do not pay, the other side will probably try to collect it. They can garnish (try to take money out of) your wages or bank account. They can also garnish your wages or bank account if you do not answer the Complaint in the time given or if you do not show up to court and lose. **Do not ignore a lawsuit against you.**

Your money may be protected from collection if you get Social Security, veteran's benefits, a pension, or public benefits. You may have to take steps to protect it. Your wages are protected if your net weekly earnings are less than 40 x the federal minimum wage or about $1,240 a month. See our fact sheet, *Garnishment and Your Rights*.



A Judgment stays on your credit report for at least 7 years. It shows up when you apply for credit. A credit counselor may be able to help get a payment plan with the other side. Look for a nonprofit credit counselor. Be careful about people who charge you money to help you with your debts.

Bankruptcy is also a possible way to deal with debt. You should talk to a bankruptcy lawyer for more information.

Call 2-1-1 statewide. You can also text them your zip code at 898-211 or chat online at www.211unitedway.org. They can help you find credit counselors or bankruptcy referrals.

491A.01 ESTABLISHMENT; POWERS; JURISDICTION.

Subdivision 1. **Establishment.** The district court in each county shall establish a conciliation court division with the jurisdiction and powers set forth in this chapter.

Subd. 2. **Powers; issuance of process.** The conciliation court has all powers, and may issue process as necessary or proper to carry out the purposes of this chapter. No writ of execution or garnishment summons may be issued out of conciliation court.

Subd. 3. [Expired, 2012 c 283 s 1]

Subd. 3a. **Jurisdiction; general.** (a) Except as provided in subdivisions 4 and 5, the conciliation court has jurisdiction to hear, conciliate, try, and determine civil claims if the amount of money or property that is the subject matter of the claim does not exceed: (1) $15,000; or (2) $4,000, if the claim involves a consumer credit transaction.

(b) "Consumer credit transaction" means a sale of personal property, or a loan arranged to facilitate the purchase of personal property, in which:

(1) credit is granted by a seller or a lender who regularly engages as a seller or lender in credit transactions of the same kind;

(2) the buyer is a natural person;

(3) the claimant is the seller or lender in the transaction; and

(4) the personal property is purchased primarily for a personal, family, or household purpose and not for a commercial, agricultural, or business purpose.

(c) Except as otherwise provided in this subdivision and subdivisions 5 to 11, the territorial jurisdiction of conciliation court is coextensive with the county in which the court is established. The summons in a conciliation court action under subdivisions 6 to 10 may be served anywhere in the state, and the summons in a conciliation court action under subdivision 7, paragraph (b), may be served outside the state in the manner provided by law. The court administrator shall serve the summons in a conciliation court action by first class mail, except that if the amount of money or property that is the subject of the claim exceeds $2,500, the summons must be served by the plaintiff by certified mail, and service on nonresident defendants must be made in accordance with applicable law or rule. Subpoenas to secure the attendance of nonparty witnesses and the production of documents at trial may be served anywhere within the state in the manner provided by law.

When a court administrator is required to summon the defendant by certified mail under this paragraph, the summons may be made by personal service in the manner provided in the Rules of Civil Procedure for personal service of a summons of the district court as an alternative to service by certified mail.

Subd. 4. **Jurisdiction; exclusions.** The conciliation court does not have jurisdiction over the following actions:

(1) involving title to real estate, including actions to determine boundary lines;

(2) involving claims of defamation by libel or slander;

(3) for specific performance, except to the extent authorized in subdivision 5;

(4) brought or defended on behalf of a class;

(5) requesting or involving prejudgment remedies;

(6) involving injunctive relief, except to the extent authorized in subdivision 5;

(7) pursuant to chapters 256, 257, 259, 260, 518, 518A, 518B, and 518C, except for actions involving debts owed to state agencies or political subdivisions that arise under those chapters;

(8) pursuant to chapters 524 and 525;

(9) where jurisdiction is vested exclusively in another court or division of district court;

(10) for eviction; and

(11) involving medical malpractice.

Subd. 5. **Jurisdiction; personal property.** If the controversy concerns the ownership or possession of personal property the value of which does not exceed the jurisdictional limit under subdivision 3, the conciliation court has jurisdiction to determine the ownership and possession of the property and direct any party to deliver the property to another party. Notwithstanding any other law to the contrary, once the judgment of the court directing return of the property becomes final, it is enforceable by the sheriff of the county in which the property is located without further legal process. The sheriff is authorized to effect repossession of the property according to law, including, but not limited to: (1) entry upon the premises for the purposes of demanding the property and ascertaining whether the property is present and taking possession of it; and (2) causing the building or enclosure where the property is located to be broken open and the property taken out of the building and if necessary to that end, the sheriff may call the power of the county to the sheriff's aid. If the party against whom the judgment is directed is not physically present at the time of entry by the sheriff, then a copy of the judgment must be served upon any person in possession of the property or if no person is present, a copy of the judgment must be left on the premises. After taking possession of the property, the sheriff shall turn the property over to the prevailing party.

Subd. 6. **Jurisdiction; student loans.** The conciliation court also has jurisdiction to determine a civil action commenced by a plaintiff educational institution, including but not limited to, a state college or university governed by the Board of Trustees of the Minnesota State Colleges and Universities, with administrative offices in the county in which the conciliation court is located, to recover the amount of a student loan or loans even though the defendant or defendants are not residents of the county under the following conditions:

(1) the student loan or loans were originally awarded in the county in which the conciliation court is located;

(2) notice that payment on the loan is overdue has previously been sent by first class mail to the borrower to the last known address reported by the borrower to the educational institution; and

(3) the notice states that the educational institution may commence a conciliation court action in the county where the loan was awarded to recover the amount of the loan.

Subd. 7. **Jurisdiction; foreign defendants.** (a) If a foreign corporation is subject by law to service of process in this state or is subject to service of process outside this state under section 543.19, a conciliation court action may be commenced against the foreign corporation:

(1) in the county where the corporation's registered agent is located;

(2) in the county where the cause of action arose, if the corporation has a place of business in that county either at the time the cause of action arose or at the time the action was commenced; or

(3) in the county in which the plaintiff resides, if the corporation does not appoint or maintain a registered agent in this state, withdraws from the state, or the certificate of authority of the corporation is canceled or revoked.

(b) If a nonresident other than a foreign corporation is subject to service of process outside this state under section 543.19, a conciliation court action may be commenced against the nonresident in the county in which the plaintiff resides.

Subd. 8. **Jurisdiction; multiple defendants.** The conciliation court also has jurisdiction to determine a civil action commenced against two or more defendants in the county in which one or more of the defendants resides. Counterclaims may be commenced in the county where the original action was commenced.

Subd. 9. **Jurisdiction; rental property.** The conciliation court also has jurisdiction to determine an action for damages arising from the landlord and tenant relationship under chapter 504B or under the rental agreement in the county in which the rental property is located.

Subd. 10. **Jurisdiction; dishonored checks.** The conciliation court also has jurisdiction to determine a civil action commenced by a plaintiff, resident of the county, to recover the amount of a dishonored check issued in the county, even though the defendant or defendants are not residents of the county, if the notice of nonpayment or dishonor described in section 609.535, subdivision 3, is sent to the maker or drawer as specified in that section and the notice states that the payee or holder of the check may commence a conciliation court action in the county where the dishonored check was issued to recover the amount of the check. This subdivision does not apply to a check that has been dishonored by stop payment order.

Subd. 11. **Jurisdiction; county claim against nonresident.** The conciliation court has jurisdiction to determine a civil action commenced by the county in which it is established to recover debts owed to the county for fees, services, overpayments, or similar obligations, even though the defendant is not a resident of the county provided that notice of the overdue debt:

(1) has previously been sent by first class mail to the nonresident defendant at the defendant's last known address; and

(2) states that the county may commence a conciliation court action in the county where the debt owed was incurred.

For the purposes of this section, "overpayments" does not include any overpayments that are governed by the procedures set forth under chapter 256.

History: *1993 c 321 s 2; 1994 c 465 art 1 s 57; 1994 c 502 s 2; 1996 c 395 s 18; 1999 c 199 art 2 s 28; 2003 c 2 art 2 s 15; 2010 c 391 s 6; 2012 c 128 s 15; 2012 c 283 s 1,2; 2015 c 27 s 1,2*

491A.02 PROCEDURE.

Subdivision 1. **Procedure; rules; forms.** The determination of claims in conciliation court must be without jury trial and by a simple and informal procedure. Conciliation court proceedings must not be reported. By July 1, 1993, the Supreme Court shall promulgate rules governing pleading, practice, and procedure for conciliation courts, and shall promulgate uniform claim and counterclaim forms. The claim and summons must include a conspicuous notice in at least 10-point bold type regarding the consequences of a failure to appear at a conciliation court hearing. Each conciliation court shall accept a uniform claim or counterclaim that has been properly completed and forwarded to the court together with the entire filing fee, if any.

Subd. 2. **Assistance to litigants.** Under the supervision of the conciliation court judges, the court administrator shall explain to litigants the procedure and functions of the conciliation court and shall on request assist them in filling out all forms and pleading necessary for the presentation of their claims or counterclaims to the court. The uniform claim and counterclaim forms must be accepted by any court administrator and shall on request be forwarded together with the entire filing fee, if any, to the court administrator of the appropriate conciliation court. The court administrator shall on request assist judgment creditors and debtors in the preparation of the forms necessary to obtain satisfaction of a final judgment. The performance of duties prescribed in this subdivision do not constitute the practice of law for purposes of section 481.02, subdivision 8.

Subd. 3. **Fees.** The court administrator shall charge and collect the fee established pursuant to section 357.022, together with applicable law library fees established pursuant to law, from a plaintiff and from a defendant when the first paper for that party is filed in any conciliation court action. The rules promulgated by the Supreme Court shall provide for commencement of an action without payment of fees when a litigant who is a natural person claims an inability to pay the fees, provided that if the litigant prevails on a claim or counterclaim, the fees must be paid to the administrator out of any money recovered by the litigant.

Subd. 4. **Representation.** (a) A corporation, partnership, limited liability company, sole proprietorship, or association may be represented in conciliation court by an officer, manager, or partner or an agent in the case of a condominium, cooperative, or townhouse association, or may appoint a natural person who is an employee or commercial property manager to appear on its behalf or settle a claim in conciliation court. The state or a political subdivision of the state may be represented in conciliation court by an employee of the pertinent governmental unit without a written authorization. The state also may be represented in conciliation court by an employee of the Division of Risk Management of the Department of Administration without a written authorization. Representation under this subdivision does not constitute the practice of law for purposes of section 481.02, subdivision 8. In the case of an officer, employee, commercial property manager, or agent of a condominium, cooperative, or townhouse association, an authorized power of attorney, corporate authorization resolution, corporate bylaw, or other evidence of authority acceptable to the court must be filed with the claim or presented at the hearing. This subdivision also applies to appearances in district court by a corporation or limited liability company with five or fewer shareholders or members and to any condominium, cooperative, or townhouse association, if the action was removed from conciliation court.

(b) "Commercial property manager" means a corporation, partnership, or limited liability company or its employees who are hired by the owner of commercial real estate to perform a broad range of administrative duties at the property including tenant relations matters, leasing, repairs, maintenance, the negotiation and resolution of tenant disputes, and related matters. In order to appear in conciliation court, a property manager's employees must possess a real estate license under section 82.87 and be authorized by the owner of the property to settle all disputes with tenants and others within the jurisdictional limits of conciliation court.

(c) A commercial property manager who is appointed to settle a claim in conciliation court may not charge or collect a separate fee for services rendered under paragraph (a).

Subd. 5. **Installment payments.** A judgment ordered may provide for satisfaction by payments in installments in amounts and at such times, not exceeding one year for the last installment, as the judge determines to be just and reasonable. If any installment is not paid when due, the entire balance of the judgment order becomes immediately due and payable.

Subd. 6. **Appeal by removal to district court; trial de novo; notice of costs.** The rules promulgated by the Supreme Court must provide for a right of appeal from the decision of the conciliation court by removal to the district court for a trial de novo. The notice of order for judgment must contain a statement that if the removing party does not prevail in district court as provided in subdivision 7, the opposing party may be awarded an additional $50 as costs.

Subd. 7. **Costs in district court.** (a) For the purposes of this subdivision, "removing party" means the first party who serves or files a demand for removal. "Opposing party" means any party as to whom the removing party seeks a reversal in whole or in part.

(b) If the removing party prevails in district court, the removing party may recover costs from the opposing party as though the action were commenced in district court. If the removing party does not prevail, the court shall order an additional $50 to be paid to the opposing party as costs. If the removing party is eligible to proceed under section 563.01, the additional $50 costs may be waived if the court, in its discretion, determines that a hardship exists and that the case was removed from conciliation court in good faith.

(c) For purposes of this section, the removing party prevails in district court if:

(1) the removing party recovers at least $500 or 50 percent of the amount of value of property that the removing party requested on removal, whichever is less, when the removing party was denied any recovery in conciliation court;

(2) the opposing party does not recover any amount or any property from the removing party in district court when the opposing party recovered some amount or some property in conciliation court;

(3) the removing party recovers an amount or value of property in district court that exceeds the amount or value of property that the removing party recovered in conciliation court by at least $500 or 50 percent, whichever is less; or

(4) the amount or value of property that the opposing party recovers from the removing party in district court is reduced from the amount or value of property that the opposing party recovered in conciliation court by at least $500 or 50 percent, whichever is less.

(d) Costs or disbursements in conciliation or district court must not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this section.

Subd. 8. **Appeal from district court.** Decisions of the district court on removal from a conciliation court determination on the merits may be appealed to the Court of Appeals as in other civil actions.

Subd. 9. **Judgment debtor disclosure.** Notwithstanding any contrary provision in rule 518 of the Conciliation Court Rules, unless the parties have otherwise agreed, if a conciliation court judgment or a judgment of district court on removal from conciliation court has been docketed in district court, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment

originated shall, upon request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earning. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully, subject to section 588.04, paragraph (b).

History: *1993 c 321 s 3; 1994 c 502 s 3; 1995 c 254 art 5 s 15; 2004 c 226 s 1; 2007 c 148 art 2 s 69; 2009 c 83 art 2 s 32; 2013 c 104 s 1*

699

491A.03 JUDGES; ADMINISTRATOR; REPORTER; SUPPLIES.

Subdivision 1. **Judges; referees.** The judges of district court may serve as judges of conciliation court. The chief judge of the district may appoint one or more suitable persons to act as referees in conciliation court; the chief judge of the district shall establish qualifications for the office, specify the duties and length of service of referees, and fix their compensation.

Subd. 2. **Administrator.** The court administrator of the district court shall serve as the court administrator of conciliation court. The court administrator shall account for and pay over to the appropriate official all fees received by the court administrator.

Subd. 3. **Court reporter.** Each court reporter appointed by a judge of district court shall, at the request of the judge, assist that judge in performing the judge's duties as conciliation court judge. A court reporter may not take official notes of any trial or proceedings in conciliation court.

Subd. 4. **Quarters; supplies.** The county in which the court is established shall provide suitable quarters for the court. Except as otherwise provided by law, all expenses for necessary blanks, stationery, books, furniture, furnishings, and other supplies for the use of the court and the officers of the court shall be included in the budget for the court administrator's office provided by the county board pursuant to section 485.018, subdivision 6.

History: *1993 c 192 s 98; 1993 c 321 s 4; 2009 c 59 art 3 s 3; 2009 c 83 art 2 s 33*

MINNESOTA JUDICIAL BRANCH

Alternative Dispute Resolution (ADR) / Mediation

Back to Previous Page

Alternative Dispute Resolution (ADR) processes are alternative methods of helping people resolve legal problems before going to court. ADR involves an independent third person, called a "neutral" who tries to help resolve or narrow the areas of conflict.

Overview | ADR Ethics Board | Applications | Course Petitions | FAQs | Complaint Process | Resources, Rules & Policies | Contact Us

General Questions

- What is ADR?
- What is a neutral?
- I have been ordered to use ADR for my court case. Why?
- How do I find a qualified neutral?
- What is the fee for a neutral and who pays the fee?
- How do I become a qualified neutral?
- A person takes the required training to be on any Rule 114 list, but chooses not to be listed on the roster. Can they say that they are "Qualified to be a Minnesota Rule 114 neutral" or that they are a "Minnesota Rule 114 qualified neutral?"
- What are the requirements to stay on the roster?

Complaints

- Is it possible to find out if a complaint has been filed against a neutral?
- How do I file a complaint against a neutral?
- At what point is the neutral notified that a complaint has been received? If a complaint is unfounded, is the neutral still notified?
- Is there any recourse if there is a complaint about someone practicing ADR but not on the list of qualified neutrals?
- Of the complaints that have merit, what is a "typical" resolution?
- What are the most common complaints received by the Board regarding ADR neutrals?
- How many complaints are dismissed as unfounded?
- Could you give us a breakdown of the number of ethics complaints by each Rule 114 Code of Ethics Rule number?

The ADR Ethics Board

- **Who serves on the ADR Ethics Board?**
- **What are the criteria for selection/appointment?**
- **How are Board members selected/appointed?**
- **What other responsibilities does the ADR Ethics Board have beyond monitoring ADR practice and practitioners?**

What is ADR?

Alternative Dispute Resolution (ADR) processes are alternative methods to help people resolve legal problems before going to court. ADR involves an independent third person, called a "neutral" who tries to help resolve or narrow the areas of conflict. The use of ADR early in a case can result in the more efficient, cost-effective resolution of disputes with greater satisfaction to the parties. A great majority of the civil cases, including marital dissolutions (divorces), filed in Minnesota State courts are settled by using ADR. Minnesota courts recognize the effectiveness of ADR as a tool for settling disputes. In response, the courts provide parties and their attorneys, if parties are represented, with ADR information when they file a civil case. The parties must consider whether to use ADR to help resolve the dispute.

The following is a list of descriptions of the different types of ADR processes:

Adjudicative Processes

- Arbitration. A process in which each party in a dispute and their attorney present their position before a neutral third party, who makes a decision. If the parties stipulate in writing that the arbitration will be binding, then the proceedings will be conducted pursuant to the Uniform Arbitration Act (Minn. Stat. § 572.08 - .30). If the parties do not stipulate that the award is binding, the award is non-binding and will be conducted pursuant to Rule 114.09 .
- Consensual Special Magistrate. A process in which the parties present their positions to a neutral in the same manner as a civil lawsuit is presented to a judge. This process is binding and includes the right of appeal to the Minnesota Court of Appeals.
- Summary Jury Trial. A process in which each party and their attorney present a summary of their position before a panel of jurors. The number of jurors on the panel is six unless the parties agree otherwise. The panel may issue a non-binding advisory opinion regarding liability, damages, or both.

Evaluative Processes

- Early Neutral Evaluation. (ENE). A process in which attorneys present the core of the dispute to a neutral evaluator in the presence of the parties. This occurs after the case is filed but before Discovery *(the formal process of gathering information pertinent to the pending litigation, which may include written interrogatories, document production and depositions)* is conducted. The neutral then gives an assessment of the strengths and weaknesses of the case. If settlement does not result, the neutral helps narrow the dispute and suggests guidelines for managing discovery.
- Non-Binding Advisory Opinion. A process in which the parties and their counsel present their position before one or more neutral(s). The neutral(s) then issue(s) a non-binding advisory opinion regarding liability, damages, or both.

Investigation and Report Process

- Neutral Fact-Finding. A process in which a neutral investigates and analyzes a factual dispute and issues findings. The findings are non-binding unless the parties agree to be bound by them.

Facilitative Processes

- Mediation. A process in which a neutral third party facilitates communication between parties to promote settlement. A mediator may not impose his or her own judgment on the issues for that of the parties.

Hybrid Processes

- Mini-Trial. A process in which each party and their attorney present their opinion, either before a selected representative for each party (i.e., the president of a company), before a neutral third party, or both to develop a basis for settlement negotiations. A neutral may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding unless the parties agree that it is binding and enter into a written settlement agreement.
- Mediation-Arbitration. (Med-Arb). A hybrid of mediation and arbitration in which the parties initially mediate their disputes; but if they reach impasse, they arbitrate the deadlocked issues.
- Other. Parties may by agreement create an ADR process. They shall explain their process in the civil cover sheet that is filed with the court.

What is a neutral?

A "neutral" is an individual or organization who provides an ADR service, such as mediation or arbitration, as stated in Rule 114.02(b). Neutrals who are on the State Court Administrator's Rule 114 Neutral Roster are "qualified neutrals." Neutrals are professionals with a wide variety of backgrounds. Some are also attorneys, and they do not represent anyone for whom they are acting as a neutral.

How do I find a qualified neutral?

To find a neutral search the roster. You may search the roster by choosing the family or civil roster, by experience, and by county. Once you have a list, you may contact any of the qualified neutrals to find out their fees and experience.

How do I become a qualified neutral?

In order to become a neutral you must take an ADR course certified through State Court Administration. The course must meet the requirements in Rule 114.13. A sample list of course providers can be found **here**. (The judicial branch is not endorsing or recommending these agencies due to their inclusion on this list.) Complete an ADR Neutral application after you have completed the required coursework to become a qualified neutral and be listed on the Rule 114 Neutral Roster. The application fee is $60.00.

What are the requirements to stay on the roster?

Qualified neutrals must pay a $35.00 annual renewal fee. In addition qualified neutrals providing facilitative or hybrid services must complete 18 hours of ADR related continuing education within a three-year reporting period. Qualified neutrals providing exclusively adjudicative or evaluative services must complete nine hours of ADR related continuing education within a three-year reporting period. Qualified neutrals providing services on both the facilitative/hybrid and evaluative and/or adjudicative panels need only complete 18 hours.

State Court Administration will email the ADR Neutral Fee Invoice and an ADR Continuing Education Report Form approximately 90 days prior to the due date. If you need to obtain another copy of these documents, please send an e-mail to **adr@courts.state.mn.us**.

A person takes the required training to be on any Rule 114 list, but chooses not to be listed on the roster. Can they say that they are "Qualified to be a Minnesota Rule 114 neutral" or that they are a "Minnesota Rule 114 qualified neutral?"

A neutral must be currently active on the MN State Court Adminstrator's neutral roster to say that they are a "qualified neutral under Rule 114 of the Minnesota General Rules of Practice." See Rule 114 Code of Ethics, Rule VI Advertising and Solicitation.

What is the fee for a neutral and who pays the fee?

Parties are responsible for paying the neutral for their services. Typically, fees are based on an hourly rate established by the neutral. ADR services provided by some organizations have established a sliding fee scale based on the parties' incomes. It is assumed that the parties will split the cost of the ADR process equally, unless they agree otherwise. Parties should be sure to discuss fees and payments prior to entering into an ADR agreement.

Is it possible to find out if a complaint has been filed against a neutral?

Information can only be given out if the ADR Ethics Board issued a public sanction against a neutral. Otherwise, all complaint information is private and confidential.

How do I file a complaint against a neutral?

Please see the Complaint Process section for detailed information.

What are the most common complaints received by the board regarding ADR neutrals?

Between 1998 and June 2013:

- 13 complaints filed against neutrals on the civil facilitative (mediation) roster.
- 2 complaints filed against neutrals on the civil adjudicative/evaluative roster.
- 127 complaints against neutrals on the family facilitative (mediation) roster. Of those 127, 64 were complaints against parenting time expeditors.

How many complaints are dismissed as unfounded?

Between 1998 and June 2013:

- Of the 144 complaints, 64 were dismissed without investigation and 80 were investigated.
- Of the 80 complaints that were investigated, 37 were determined to be ethical violations and 43 were dismissed.

Could you give us a breakdown of the number of ethics complaints by each Rule 114 Code of Ethics Rule number?

Total complaints of alleged ethical rule violation by rule (1998 - June 2013):

- Impartiality 96
- Conflicts of Interest 48
- Competence 47
- Confidentiality 50
- Quality of Process 110
- Advertising 16
- Fees 46
- Self-Determination 32

The ADR Ethics Board

What is the process for reviewing and handling a complaint?

The complaint process is summarized on Complaint Process tab.

At what point is the neutral notified that a complaint has been received? If a complaint is unfounded, is the neutral still notified?

The ADR Ethics Board determines whether, the allegation(s) of a complaint, if true, constitute a violation of the Rule 114 Code of Ethics. If the allegations, if true, constitute a violation, the neutral is notified that there will be an investigation and has thirty days to respond. If the allegations do not constitute a violation, the

neutral is notified of the complaint and its dismissal.

Is there any recourse if there is a complaint about someone practicing ADR but not on the list of qualified neutrals?

The ADR Ethics Board only considers complaints against any individual or organization (neutral) placed on the roster of qualified neutrals pursuant to Rule 114.12 or serving as a court appointed neutral pursuant to 114.05(b) of the Minnesota General Rules of Practice. Neutrals may also be subject to ethical rules of their profession (such as Board of Social Work, Psychiatry or Attorney Professional Responsibility) or professional associations.

Of the complaints that have merit, what is a "typical" resolution?

The Board may impose sanctions if doing so is supported by clear and convincing evidence. (Code of Ethics Enforcement Procedure Rule III, Sanctions, Part B.) The Code of Ethics Enforcement Procedure Rule III, Sanctions, Part A includes, but is not limited to, the following:

- Issue a private reprimand.
- Designate the corrective action necessary for the neutral to remain on the roster.
- Notify the appointing court and any professional licensing authority with which the neutral is affiliated of the complaint and its disposition.
- Publish the neutral's name, a summary of the violation, and any sanctions imposed.
- Remove the neutral from the roster of qualified neutrals, and set conditions for reinstatement if appropriate.

ADR Ethics Board

Who serves on the ADR Ethics Board?

The thirteen-member board includes representatives of:

- Judiciary (6)
- Non-Judiciary (9)

Current board members are listed on Current Board Members tab.

What are the criteria for selection/appointment?

Individuals serving on the ADR Ethics Board who provide neutral services must be qualified neutrals under Rule 114, and be on the Rule 114 Roster of Neutrals maintained by the State Court Administrator. The Board elects a Chair from its members.

How are board members selected/appointed?

The State Court Administrator solicits applications for Board members. The Minnesota Supreme Court appoints members to the ADR Ethics Board.

The ADR Ethics Board makes recommendations to the Minnesota Supreme Court, which appoints members. The Ethics Board considers applicants' professional experiences and commitment to the importance of ADR in the MN court system. It also seeks to represent broad ADR backgrounds in its membership, and gender, racial, ethnic and geographic diversity, with members from throughout Minnesota. The Board also recommends applicants who contribute special expertise or knowledge on some aspect of policy that the Board expects to face in the near future.

What other responsibilities does the ADR Ethics Board have beyond monitoring ADR practice and practitioners?

The Board Rules define its duties as:

- The ADR Ethics Board will provide general oversight of ADR within the Minnesota State court system.
- The Board shall have the power to receive complaints, investigate, conduct hearings and impose sanctions concerning allegations of inappropriate conduct by any individual or organization on the roster of qualified neutrals pursuant to Rule 114.13 or serving as a court appointed neutral pursuant to 114.05(b) of the Minnesota General Rules of Practice.

The MN Supreme Court adopted the current ADR Ethics Board priorities in an Order dated November 8, 2007:

A. Rule 114 Ethics Complaint Management

i. Review and respond to all ADR process complaints following the Rule 114 Ethics Enforcement Procedure.

ii. Investigate methods of publishing and educating neutrals on "best practices" and submit an implementation plan to the Supreme Court for approval.

iii. Make recommendations regarding ethics enforcement process improvement to the General Rules of Practice Committee.

B. Rule 114 Ethics Education and Outreach

i. Participate as experts in presentations to the bench, bar, and neutrals. Make recommendations to the State Court Legal Counsel Division for ADR ethics training needs.

ii. Service by board members on future state level judicial branch committeees or task forces relating to ADR as appointed by the Supreme Court or the Judicial Branch.

iii. Review and approval of Rule 114 training waivers as appropriate. (Rule 114.13)

C. Rule 114 Improvement

i. The Supreme Court may convene the ADR Ethics Board as a Rules Committee to consider Rule 114 changes and report to the General Rules of Practice committee.

ii. The Board may also request such action and give rationale based on members' knowledge of the ADR field and experience with ethics complaints.

§ 2.1 GENERAL INTRODUCTION; HISTORICAL OVERVIEW

Alternative dispute resolution (ADR) has become a major means of resolving disputes in Minnesota, and its use has greatly increased since 1994. With this increase in popularity, new forms of ADR have developed in an effort to resolve even more disputes outside of the judicial system. In fact, ADR is a useful and efficient tool for resolving disputes at any stage and may be effectively utilized before litigation has commenced, during pending litigation, and even after a case has been litigated and is on appeal.

Despite the growing popularity of ADR, many cases are still filed each year in Minnesota courts. For example, in fiscal year 2018, 30,979 major civil cases and 41,669 family cases were filed in total across the state. Minn. Judicial Branch, *Performance Measures, Key Results and Measures Annual Report*, at 11–12 (Sept. 2018) <http://www.mncourts.gov/mncourtsgov/media/PublicationReports/Annual-Report-2018-Perf-Measures-Jud-Cncl.pdf>. And on the appellate level, the Minnesota Court of Appeals (with 19 judges) had 1,911 appeals filed in fiscal year 2018, with approximately half of them constituting criminal matters, and the Minnesota Supreme Court had approximately 600 petitions for review filed. *Id.* at 24–27. A small percent of cases filed are actually tried and, of those, many are appealed. Accordingly, while ADR has grown and evolved into an integral part of our system of justice, the traditional adversarial system is still adjudicating numerous cases and developing the common law in the process.

The use of ADR, however, was never meant to replace the judicial system, which is the constitutional forum established as a peaceful means of resolving disputes. Instead, the growing use of ADR has been welcomed by citizens and reflects the support of the legislature and judiciary. It has grown in use, in part because the traditional judicial decision-making model may not provide the most comprehensive, cost-effective, or timely solution to ongoing problems or needs. Many companies have inserted mediation and arbitration provisions in most contracts for goods, services, and employment. ADR provides an alternative for resolving disputes, allows for greater utilization of fairness and equity principles, and provides more flexibility and creativity in crafting resolutions because, in part, mediation is a voluntary process and an arbitrator is not bound by the common law.

JUDICIAL CONSIDERATION

It is often productive to discuss ADR before the lawsuit is commenced. Mediation, for example, can be very fruitful when the parties have not yet become too polarized by the adversarial process and attorneys are not under the pressure of a scheduling order.

from: MN State District Court Civil Practice Deskbook
3rd ed: 2019

ETHICAL CONSIDERATIONS

Each lawyer serving as a neutral must give consideration to how the Minnesota Rules of Professional Conduct apply to their activities in that role. The Minnesota Lawyers Professional Responsibility Board has not as yet directly applied its rules to neutrals, but there is no known rule or case that precludes the Board from taking that position. For instance, the Code of Ethics regarding conflicts of interest is less onerous and restrictive for neutrals than the Minnesota Rules of Professional Conduct for attorneys. If the neutral is an attorney, an unanswered question is "which rules apply to the attorney working in the role of a neutral?"

A. Early Statutes and Case Law Authority for Arbitration

ADR has been used in Minnesota since 1851, when the territorial laws included arbitration provisions. *See* MINN. TERR. REV. STAT. ch. 96, §§ 1–4 & 19. When Minnesota achieved statehood and the first legislature of the state of Minnesota convened, arbitration provisions from the territorial laws were incorporated into statute. *See* MINN. STAT. ch. 89 (1858). And when the Minnesota Supreme Court was first faced with a case involving arbitration in 1860, it firmly endorsed the concept. *See Washburne v. Lufkin*, 4 Minn. 466, 471–72 (1860) (encouraging "the settlement of differences by arbitration"). In the 1889 case of *Goddard v. King*, 41 N.W. 659, 661 (Minn. 1889), the Minnesota Supreme Court showed its reluctance to interfere with arbitral awards, holding:

> Where the parties have by their agreement made the arbitrators judges between them of the law and the fact, they are bound by the decision, if fairly and honestly made, even though the arbitrators have erred in their conclusions of fact, or in the law which they have applied to them.

Minnesota adopted the Uniform Arbitration Act in 1957. It was later replaced by the Revised Uniform Arbitration Act in 2010. *See* MINN. STAT. ch. 572B.

B. Statutorily Mandated ADR – MINN. STAT. § 484.76

In 1991, the Minnesota Legislature determined that all civil cases, subject to specific exceptions, shall be subject to non-binding alternative dispute resolution processes. MINN. STAT. § 484.76. The legislature provided a different standard for medical malpractice cases, directing only that "the court shall require the parties to discuss and determine whether a form of alternate dispute resolution would be appropriate or likely to resolve some or all of the issues in the case." MINN. STAT. § 604.11, SUBD. 2. The enactment of Minnesota Statutes section 484.76 received enthusiastic support from the judiciary and general acceptance from attorneys and parties to litigation. The legislature officially sanctioned ADR in response to the increased expense of litigation and out of a desire to eliminate some of the delays, uncertainties, and dissatisfaction with the traditional adversarial system. The Minnesota Supreme Court followed suit in 1993 by adopting Minnesota General Rule of Practice 114. The courts now require parties to mediate their differences in civil cases with an ADR neutral and to attempt to resolve their disputes prior to a trial. In 1999, the legislature further showed its commitment to ADR with the enactment of Minnesota Statutes section 543.22, which requires that "[w]hen a civil case is commenced against a party, the summons must include a statement that provides the opposing party with information about the alternative dispute resolution process as set forth in the Minnesota General Rules of Practice." *See infra* Appendix A. A 2013 amendment to the General Rules of Practice, "aimed at facilitating more cost effective and efficient civil case processing," now requires that after the parties' case-manage-

ment conference following the service of a complaint or petition, the parties shall include information regarding the ADR process in a civil cover sheet pursuant to Minnesota General Rule of Practice 104.

The legislature further provided immunity for presiding ADR neutrals "except for injury caused by malice, bad faith, or reckless conduct." MINN. STAT. § 604A.32; *see also Owens v. Am. Arbitration Ass'n*, No. 16-1055, 2016 WL 6818858, at *2 (8th Cir. 2016) (recognizing that immunity protects an arbitration sponsoring organization from civil liability during the arbitration process and concluding that "removal of arbitrators is similarly protected by arbitral immunity because it is just as much a part of the arbitration process as the appointment of arbitrators"). Presiding ADR neutrals also have general privileges and immunity from being compelled to testify except for conduct that may constitute a crime, disqualification proceedings, or unprofessional conduct. MINN. STAT. § 595.02, SUBD. 1a.

ETHICAL CONSIDERATIONS

In all forms of ADR, the neutral must be impartial and serve "only in those matters in which she or he can remain impartial and even-handed." MINN. GEN. R. PRAC. 114, App., Rule I. At any time during the process, if a neutral feels unable to act impartially, the neutral must withdraw. This requires self-assessment by the neutral. Attorneys and judges must be mindful of the need for neutrality in the selection or appointment of a neutral to any ADR process. MINN. GEN. R. PRAC. 114, App., Code of Ethics, Rule I. (References to the Code of Ethics refer to the Rule 114 Appendix, which applies to individuals and organizations who are qualified under Rule 114 to act as neutrals in court-referred cases and to those neutrals who seek qualification by the Minnesota Supreme Court. The comments to the rule are guides to interpretation and are not authoritative. The introduction to the Code of Ethics provides a general orientation to it.)

Any neutral has an independent duty to disclose all actual and potential conflicts of interest "reasonably known to the neutral." This includes the appearance of any conflict of interest. Once the potential conflict has been disclosed, all parties may choose to retain the neutral, provided that the waiver of the conflict or potential conflict is in writing. After an ADR process has been completed, a neutral may not, under certain circumstances, establish another professional relationship with any of the parties "for a reasonable time under the particular circumstances ... in a substantially factually related manner." This rule may preclude another attorney in a neutral's law firm from representing a client for which the neutral has served in an ADR process. The parties and their attorneys are allowed to make independent judgments to determine whether a particular neutral is not suitable for a particular case and process. MINN. GEN. R. PRAC. 114, App., Code of Ethics, Rule II.

§ 2.2 MINNESOTA GENERAL RULE OF PRACTICE 114

Minnesota General Rule of Practice 114 provides attorneys and parties with a framework regarding the various ADR processes, including mediation and arbitration, in the context of pending civil cases in the court system. Minnesota General Rule of Practice 114 describes the steps involved in the selection of an ADR process and a neutral, the process involved in selecting a time and place for ADR proceedings, the parties' communications with the

neutral, confidentiality, various aspects regarding the neutral's fee, where the roster of neutrals may be obtained, and the required neutral training.

The Minnesota Supreme Court Alternative Dispute Resolution Ethics Board has recently recommended to the Minnesota Supreme Court numerous substantive amendments to Minnesota General Rule of Practice 114, which was originally created in 1993. Specific proposed changes include:

- expanding the jurisdiction of Minnesota General Rule of Practice 114 to apply to neutrals in family law cases, as well as in civil cases;
- expanding and clarifying ADR processes and definitions;
- removing organizations from the state court administrator's roster of neutrals;
- requiring the court administrator to provide a copy of the order of appointment to the neutral to eliminate potential conflicts and ethical concerns between the rule of the neutral, as agreed by the parties, and the neutral's role, as set forth in the order;
- requiring signed written agreements for all ADR services in civil or family court, which include a description of the role the neutral is providing, an explanation of confidentiality and admissibility of evidence, compensation details, and procedures to be followed;
- creating a simplified process for the neutral to seek relief for non-payment;
- requiring the neutral to provide written qualifications;
- integrating the Code of Ethics into Minnesota General Rule of Practice 114, rather than having it as a separate appendix; and
- incorporating the enforcement procedure for the Code of Ethics into the rule.

As stated in the Report of the Minnesota Supreme Court Alternative Dispute Resolution Ethics Board, the amendments were recommended because of the "changing world of ADR in the courts and the increase in complaints against neutrals." Minnesota Supreme Court Alternative Dispute Resolution Ethics Board, *Recommendations of Minnesota Supreme Court Alternative Dispute Resolution Ethics Board* (July 14, 2017), *available at* <http://www.mncourts.gov/mncourtsgov/media/CIOMediaLibrary/News%20and%20Public%20Notices/Orders/Administrative-Order-Comment-periodHearing.pdf>. Currently, the Minnesota Supreme Court is gathering input regarding the proposed changes.

A. How to Select an ADR Neutral

Minnesota General Rule of Practice 114.04(a) requires the parties, upon commencement of litigation, to "promptly confer regarding case management issues, including the selection and timing of the ADR process." (Proposed Rule 114.04(b) provides that "[t]he parties, after service of the complaint, petition, or motion, shall promptly confer regarding selection and timing of the ADR process and selection of a Qualified Neutral.") Functioning as a neutral is a quasi-judicial function and a conditional privilege. "Neutrals have a responsibility not only to the parties and to the court, but also to the continuing improvement of ADR processes." MINN. GEN. R. PRAC. 114, App., Code of Ethics, Introduction. (This language is included in Proposed Rule 114.15(a)(3).)

1. Roster of Neutrals – Minn. Gen. R. Prac. 114.12

The state court administrator is required to establish civil and family Rule 114 rosters. Individuals desiring to be placed on the roster need to apply to be listed. The list shall include those who have received the required training established by Minnesota General Rule of Practice 114.13 or received a waiver under Minnesota General Rule of Practice 114.14. The roster of qualified neutrals may be obtained online at the state court website for ADR at <http://adr.courts.state.mn.us/adr/Adr_query.asp>. (Proposed Rule 114.02(f) eliminates organizations from the roster of qualified neutrals.)

ETHICAL CONSIDERATIONS

"A neutral shall serve as a neutral only when she/he has the necessary qualifications to satisfy the reasonable expectations of the parties." Minn. Gen. R. Prac. 114, App., Code of Ethics, Rule III. This applies to neutrals in all processes. The neutral must provide the parties with information regarding his or her relative training, education, and experience, and even if the parties want to retain a particular neutral, that person should decline appointment if, in the neutral's own judgment, he or she believes that the dispute is beyond his or her competence. Minn. Gen. R. Prac. 114, App., Code of Ethics, Rule III.

2. Court Appointed Neutrals – Minn. Gen. R. Prac. 114.05(a)

If the parties cannot agree on how to select a neutral, the court has authority to make the selection under Minnesota General Rule of Practice 114.05(a) and may do so at the time of the scheduling order. (Proposed Rule 114.04(b) provides that "[i]n the event that the parties are unable to agree on a Qualified Neutral, the court shall make the selection of a Qualified Neutral. If the parties decide on a process and cannot decide on a Neutral, the court should not substitute its judgment on process. The court shall, with the advice of the parties, establish a deadline for completion of the ADR process.")

3. General Expertise Roster Exceptions – Minn. Gen. R. Prac. 114.13(f)

The parties may select fact finders and other ADR practitioners based on their experience, even though they are not listed on the neutral roster maintained by state court administration. (Proposed Rule 114 strikes this language, and provides in Minnesota General Rule of Practice 114.04(b) that "[a]ny individual providing ADR services under Rule 114 must be a Qualified Neutral, except for ... Neutral Fact Finders; ... a Neutral who does not qualify under Rule 114.13 of these rules may be selected by the parties for appointment by the court for an adjudicative ADR process based on unique legal or other professional training or experience; or ... when parties consent to an ADR process that is not required.")

B. Fee Agreements for ADR Services – Minn. Gen. R. Prac. 114.11

A neutral's fees for ADR services are required to be fair and reasonable. The neutral is required to disclose and explain to the parties at the outset the costs associated with ADR, including the neutral's compensation. Minn. Gen. R. Prac. 114 App., Code of Ethics, Rule VII. Neutrals may not receive contingency or referral fees. *Id.* (This

language is included in Proposed Rule 114.15(h), which also provides that the "fee agreement shall be included in the written agreement and shall be consistent with a court order appointing the Neutral.")

The parties and their counsel are responsible for the neutral's fees and typically evenly share the cost. If a party is unable to afford ADR service and free or low-cost services are unavailable, the district court will not require the parties to participate in ADR before proceeding with the court. MINN. GEN. R. PRAC. 114.11(d). (Proposed Rule 114.11 simplifies the process for a neutral to seek judicial relief for non-payment by eliminating the requirement to seek relief by motion. The amendment provides that a neutral can submit an affidavit to the court for relief without bringing a motion or intervening as a party.) If the parties cannot reach an agreement on how to pay for the ADR fees, the court has the power to determine a final and equitable allocation of costs in the ADR process.

ETHICAL CONSIDERATIONS

There must be full disclosure and explanation of the basis for compensation, fees, and charges in advance of the mediation. Contingent fee agreements are not permitted. A neutral cannot give a referral fee in receipt of any matter for which he or she will be a neutral. Where a neutral withdraws from a case, any unearned fees are to be returned to the parties. MINN. GEN. R. PRAC. 114.

PRACTICE TIP

The allocation of the ADR fee should be agreed to in writing in advance of the ADR session. Attorneys are usually required to be responsible for the payment along with their clients because ADR service providers do not have knowledge of the parties' financial conditions and, thus do not want to have a separate and/or sole financial arrangement with them.

In arbitration proceedings, an estimated fee amount is commonly collected in advance before the hearing or before a decision.

§ 2.3 MEDIATION

A. Minnesota Civil Mediation Act, MINN. STAT. §§ 572.31–572.40

The Minnesota Civil Mediation Act, first adopted in 1984, provides parties involved in the mediation of disputes with standards intended to protect the parties' rights. The Act defines mediation terms, explains the effect of a mediated settlement agreement, provides the process for setting aside or reforming a mediated settlement agreement, outlines a mediator's presentation of credentials to the public, describes the statute of limitations, and outlines the scope of its application to various proceedings. The Act provides that the agreement to mediate must be in writing, identify the controversy, and provide for termination. MINN. STAT. § 572.33, SUBD. 3.

Minnesota General Rule of Practice 114 recognizes that mediation is based on the principle of self-determination by the parties. The mediation process relies upon the ability of the parties to reach a voluntary, uncoerced

agreement. The primary responsibility for the resolution of a dispute and the shaping of a settlement agreement rests with the parties. A mediator shall not require a party to stay in the mediation against the party's will. MINN. GEN. R. PRAC. 114 App., Code of Ethics, Rule I. (Proposed Rule 114.15 continues to recognize the principle of self-determination by the parties, providing that, "[a] Neutral shall not require a party to stay in the ADR process or attempt to coerce an agreement between the parties.")

If the parties reach a settlement, the written agreement detailing the mediated settlement is not enforceable unless it states that it is binding. For a mediated settlement agreement to be binding, Minnesota Statutes section 572.35, subdivision 1(1) requires that:

> [I]t contains a provision stating that it is binding and a provision stating substantially that the parties were advised in writing that (a) the mediator has no duty to protect their interests or provide them with information about their legal rights; (b) signing a mediated settlement agreement may adversely affect their legal rights; and (c) they should consult an attorney before signing a mediated settlement agreement if they are uncertain of their rights.

In one of the few appellate cases addressing mediation, the Minnesota Supreme Court held in *Haghighi v. Russian-American Broadcasting Co.*, 577 N.W.2d 927, 930 (Minn. 1998) that Minnesota Statutes section 572.35 precluded enforcement of a handwritten agreement prepared by the parties' attorneys following a mediation session because it failed to state that it was binding. As a practical point, it is usually the preferred practice to have the parties sign the agreement at the mediation session. Further, for a settlement agreement to operate as a release, it must express intent to discharge claims. *Dykes v. Sukup Mfg. Co.*, 781 N.W.2d 578, 582 (Minn. 2010).

ETHICAL CONSIDERATIONS

There is a separate ethical rule applicable only to mediation, which states, "a mediator shall recognize that mediation is based on the principal of self-determination by the parties." MINN. GEN. R. PRAC. Rule 114, App., Mediation, Rule I. That means that it is up to the parties to be the decision-makers, not the mediator. The mediator cannot compel any party to remain in the mediation process at any time against his or her will, even if the court has ordered the mediation. The Code of Ethics does allow for mediators to make suggestions and to offer opinions, so long as the decision-making remains with the parties. *See* MINN. GEN. R. PRAC. 114, App., Code of Ethics.

B. Practical Pointers on Selecting a Mediator

The vast majority of attorneys and parties select their mediators on their own without the court or court administration's involvement. These decisions are based in large part upon the expertise and reputation of the neutral, time, type of ADR process, and, sometimes, hourly fees. Numerous neutrals practice in Minnesota and information about them can be obtained from the Rule 114 roster of ADR neutrals, the MSBA directory, and Minnesota Lawyer.

- Selecting the right mediator does make a difference in the success of the mediation. Experience, timing, cost, location, and reputation of the mediator should all be taken into consideration in selecting a mediator. Mediators are generally trained in the mediation process and experienced in a wide variety of cases. Successful mediators are good listeners, careful communicators, patient, adept at

understanding the issues, and committed to the mediation process in search of a voluntary and fair resolution.

- When deciding on a mediator, it is also important to take into consideration how the mediator will be received by the parties. The lawyer should make an assessment as to whether his or her client will listen to and respect the mediator. Sometimes it is even more important to choose a mediator whom the opposing party recommended in that they may be more prone to listen, especially in difficult or complex cases where strong opinions have been formed by the parties.

JUDICIAL CONSIDERATION

Work with counsel in the case early on about the who, what, and when of the chosen ADR process. The mediator or arbitrator the attorneys wish to retain may be booked out some time, and the attorneys will find themselves in a scramble as the deadline for ADR in the scheduling order approaches.

ETHICAL CONSIDERATIONS

If and when a mediator determines from a direct statement of a decision-maker or the representing attorney that the purpose of participating in the mediation process is to merely discover the others' "bottom lines" with no intention of reaching settlement, ethical considerations come into play. Good-faith negotiations and the reasonable expectations of the process by all parties must be considered. Arguably, if the strategy of a party is not to settle but to discover, then a person with authority to settle is not present, as required by Rule 114. The mediator cannot communicate whatever statement is made about the intentions to the other side(s). Serious consideration must be given to terminating the mediation in order for the mediation to comply with Minnesota General Rule of Practice 114, Appendix, Code of Ethics, Rule V.

C. Practical Pointers in Preparing for Mediation

1. Lawyer Preparation

- Preparation of a thorough, confidential mediation statement is crucial. The mediation statement should contain a short statement or summary of the facts, theories of recovery, damage claims, and defenses. It should be submitted to the mediator in a timely manner so that the mediator can adequately prepare for the mediation. A candid assessment of the strengths and weaknesses of the case are important for the mediator, along with disclosures of settlement offers made to date by the parties. If court orders or memorandums have already been issued, those could also be attached for informational purposes, along with some of the pleadings, if the lawyers think that would be instructive to the mediator. This confidential statement not only helps the lawyer focus on the case, but also assists the mediator in preparing for the mediation session so he or

she will have an understanding of the case as the mediator contemplates strategies for resolution.

- Timing of mediation. If additional information or discovery by way of deposition or documents or motions is deemed necessary, that should be completed before the mediation. However, often at a mediation this information can also be discussed on an informal basis to avoid some of the costs and expense of discovery.
- If strong precedents supporting or opposing various positions exist, provide those to the mediator for review.
- The parties should be aware of the attorney fees and costs incurred to date on their behalf, because often those costs become an issue in the mediation.
- Discuss with clients the general economics of the situation concerning the opposing party's ability to pay, the difficulties involved in collecting on a judgment, funding ongoing litigation, time delays, and the true cost of victory. The merits of the parties' positions sometimes are secondary, considering the economics of the situation.
- Tax ramifications. If there are going to be tax ramifications for the structuring of various settlements and the deductibility of payments, consult with a certified public accountant beforehand or have one available over the telephone to assist in the structuring and allocation of settlement proceeds. Treatment of tax issues for personal injury and emotional distress claims, and W-2 and 1099 income should be considered ahead of the mediation.
- If subrogation claims are in issue, bring appropriate contact information to the mediation and provide prior notice to those other interested parties.
- If payment terms are contemplated as part of a settlement, what terms are reasonable, including possible sanctions on default, procedures for collections, notices, interest and attorney fees for enforcement, and confession of judgment, etc.?
- Also consider the importance of non-monetary terms, and of confidentiality, non-disparagement, no admission of liability, settlement enforcement (including recovery of attorney fees for breach), and other terms that may be important to the client.

2. Preparation of Client

- The attorney should work with the client beforehand to inform the client of the importance of the mediation, the role it plays in the system of justice, and the risks, delays, and costs of a trial and appeal. Historically, very few civil cases are tried, and many of these are appealed. The attorney should encourage the client to come to the mediation with an open mind and to be flexible and creative in trying to reach a mediated settlement. Individuals with full settlement authority should be physically present at all mediation sessions. When insurers are involved, they should be present as well if the parties expect that insurance will be material to the settlement.

- Opening demand offer. Think through and discuss what the opening demand and offer should be, while leaving some room to move and taking into consideration some of the risks of litigation, the uncertainties, the delays, and the costs of proceeding forward.
- Share with the client the amount of attorney's fees and costs incurred to date and an estimate of what it is going to cost to complete the litigation through trial and possible appeal.
- Remind the client to be patient, keep an open mind, and learn from the exchange of information and positions.
- Prepare and discuss a best day/worse day scenario of case outcomes.
- Creative solutions. Make a list of significant nonmonetary conditions that might facilitate a mediated settlement.
- Discuss confidentiality provisions, general releases, mutual or unilateral agreements, arbitration of later disagreements, and finality.
- Prepare for down time during the mediation and think about how to avoid it. This includes conducting initial meetings with the mediator in advance of the mediation so that the morning is not spent waiting around for the purely informative part of the process to conclude.

D. Process: Voluntary Decision-Making

1. What Works

Mediation is based on the principle of self-determination because the parties, rather than a third-party decision-maker, determine whether a settlement is reached and the contents of any settlement. Mediators are primarily facilitators who communicate information about the process and the case to the parties and relay offers of settlement. Although resolution is the main goal, mediators must use care not to impose their preferences or judgments on the issues on the parties and must be cautious about their representations to the parties. *See* MINN. STAT. § 572.33, SUBD. 2; MINN. GEN. R. PRAC. 114.02(a)(7) (proposed MINN. GEN. R. PRAC. 114.15(j)). Thus, although mediators are performing a judicially-sanctioned service, an agreement to mediate should discuss the mediator's limited role.

ETHICAL CONSIDERATIONS

A neutral has a duty to ensure that the process is of high quality, which requires a commitment by the neutral to "diligence and procedural fairness." That means that the neutral cannot make any misstatement of fact or law, must expedite the process, must meet the reasonable expectations of the parties, shall not provide therapy to any party, and shall withdraw from the process if he or she is incapable of serving or unable to remain neutral. This list is not all inclusive. MINN. GEN. R. PRAC. 114, App., Code of Ethics, Rule V.

ETHICAL CONSIDERATIONS

A pro se litigant may be at a disadvantage if the other side is represented by an attorney. The attorney has a duty to his or her client to represent the client vigorously. The mediator cannot give legal advice to the pro se litigant without violating the ethical duty of neutrality. When the imbalance of the negotiations becomes "unfair," a mediator may terminate the mediation in order to protect the quality of the process. *See* MINN. GEN. R. PRAC. 114.

It is the duty of the attorneys, not the neutral, to determine whether all of the parties to a mediation are competent to participate in mediation and to execute a mediated settlement agreement. If the neutral questions a decision-maker's competency, he or she should seriously consider terminating the process until competency is established.

Although participation in ADR in Minnesota is mandatory by rule for most civil cases, resolution of the dispute is voluntary, and a successful mediation involves give-and-take by all the parties. Instead of seeking a perfect settlement or total victory, the parties seeking resolution often compromise so that a fair—or "win-win"—situation may be achieved for all. Sometimes, this means simply limiting losses or obtaining whatever is available.

The traditional judicial decision-making model is a formal process governed by specific rules of procedure, evidence, and the law. A judge's or jury's decision is based on the testimony and exhibits received at trial, and decisions are rendered after the record has been closed. With either a judge or a jury, the final decision-making power has been delegated by the parties to a third-party tribunal. In such cases when the dispute is under advisement for decision by the judicial decision-maker after the close of the record, there is generally no more room for bargaining or an opportunity for the judge or jury to further clarify, inquire, or compromise; ADR, however, allows for these flexible and creative options. Moreover, a trial produces a winner and a loser in a final and binding judgment and decree that the parties must abide by, subject to possible appellate rights.

ETHICAL CONSIDERATIONS

The rule regarding confidentiality is extremely important because it prevents the neutral from disclosing substantive discussions and evidence to the court in some of the ADR processes. It further prevents the court from being advised of settlement negotiations and discussions during the mediation process. Minnesota General Rules of Practice 114.08 and 114.10 specifically address confidentiality based upon the nature of the ADR process being used. There have been efforts to erode this rule in other states, but it has not been significantly tested in Minnesota. There is nothing to prevent disclosure to the court of what otherwise would be confidential information if all parties agree to disclose. It is recommended that such an agreement be in writing or made on the record. MINN. GEN. R. PRAC. 114.

In contrast, mediation is an interactive process that provides an opportunity for the parties to express their views, vent, and assess their claims' strengths and weaknesses. On a practical note, mediation also gives the parties a chance to reassess the internal and external costs of going forward with litigation, including the costs of pre-trial discovery, experts, motions, trial preparation, trial, possible appeal, and the stress and uncertainty of outcomes. Initial demands and offers often reflect the hopes of the parties, and reassessment of these hopes occurs each time a new proposal is advanced.

Parties that have had previous litigation experience generally take into account in their settlement analysis the significant costs and disruption of supporting ongoing litigation. Document production, preservation, spoliation issues, e-discovery, privilege-log issues, discovery disputes, delays, time away from the office, and deflection of focus from the main core business and family issues are significant tangible and intangible costs and expenses that need to be taken into consideration when assessing the true costs of litigating to victory in court.

Mediation allows the parties the opportunity to take all of these factors into consideration before proceeding with a trial. It provides a time out for an informal exchange of information, arguments, and feelings. Mediation also provides an opportunity to clarify comments while information is being exchanged in a voluntary, educational, and decision-making mode. It further provides for greater flexibility in structuring a settlement than a court would generally have, which can be important in moving towards resolution and providing finality to all types of disputes.

JUDICIAL CONSIDERATION

Prepare clients for the mediation process. Clients new to the process can easily become frustrated, impatient, and angry by the process. The better prepared clients are, the more likely the mediation will be a success.

2. Hindrances to Settlement

While mediation is a valuable tool for resolving disputes, certain situations may make achieving resolution difficult.

a. Absence of Individual with Settlement Authority

The main reason for an unsuccessful mediation is often the absence of the decision-maker. Therefore, success for mediation requires that individuals with settlement authority must be present at the mediation, and most court pretrial orders require this attendance. It is important to remember that mediation is an interactive, real-time process. It involves give and take on various issues, the exchange of information, and the assessment of strengths and weaknesses that come to light during the mediation process. When insurance adjusters, senior management, or other parties who are the actual decision-makers are not present at the mediation session, a void in the mediation process is created. The absence of such individuals may indicate that one side may have made a final settlement decision before the mediation and that the parties present do not have flexibility to deviate from that decision. Even though individuals in attendance at mediation may have "full settlement authority," the absent decision-maker misses out on the process of exchanging information, positions, and offers. Detachment from this process impairs resolution prospects. Thus, if the CEO of a major company is the actual decision-maker or an insurance adjuster has the final say, that individual should be present at the mediation. Otherwise, the process may end up being an expensive waste of time and effort.

JUDICIAL CONSIDERATION

Pay close attention to the scheduling order. Often, the judge has ordered that a person with full authority to settle, specifically including an adjustor, be present. Any relief from that requirement has to come from the judge, not the mediator. Moreover, Minnesota General Rule of Practice 114.07(d) requires attendance of the individuals with authority to settle.

ETHICAL CONSIDERATIONS

When a person with authority to settle is not present, or when an indispensable party to the execution of an enforceable settlement agreement is not present, the mediator is in a dilemma. If the parties present wish to proceed despite court-ordered mediation, the integrity of the process may be in jeopardy until the court approves the process. If one party objects to proceeding with the mediation until a decision-maker is present for the scheduled mediation, the mediator is without authority to compel the mediation process.

b. Line in the Sand

It is important that the parties keep an open mind coming into mediation, be receptive, and learn from all of the information and offers being exchanged. When people and parties decide ahead of time that their maximum demand or offer will be a certain amount, the entire process is severely impeded. Flexibility of thinking throughout the process is imperative for success because whenever there is movement towards acceptable common ground and resolution, there is hope of a mediated settlement. Also, when individuals come to a mediation with time constraints as to when they have to leave the mediation, the value that may be obtained from a full mediation process, especially for complex cases, is nullified.

c. Carriers of Bad News

Often at mediation, middle managers, sole representatives of companies or government agencies, and insurance adjusters do not want to take "bad news" back to headquarters from the mediation. They may find comfort or safety in having someone else, like a judge or jury, make the decision even though it may produce a worse result. Therefore, they may forego settlement opportunities, even though the risks of doing so are great. Thus, for a successful mediation, it is helpful for the participants to have experience in risk assessment and a willingness to make a candid recommendation and have "full settlement authority" for a decision on settlement.

d. More Information First

Missing information may create another barrier to settlement, especially for more complex cases. Parties sometimes think that they cannot settle until they have all of the information that they feel they need. Additional testimony, documents, financial information relating to profits or lost profits, e-discovery, and contemplated or pend-

ing summary judgment motions for relief are the most significant missing pieces of information that mediators hear complaints about. Some of this information may be provided at the mediation. However, mediation may be the appropriate forum to discuss the substance of the information, the need for it, and the costs and delays that would be required to obtain it. In many cases, the economics of the situation is the dominant factor.

e. Face-to-Face Meetings with the Parties

In some cases, having the parties meet face-to-face may create an additional impediment to resolution. This impediment is especially prevalent in employment, family law, probate, partner, and shareowner disputes. In these types of disputes where emotions run high, separating the parties from the outset is usually the wiser course of action. There is a split of authority regarding opening mediations with all present in the same room versus "shuttle diplomacy" from the start with the mediator going back and forth between the parties in separate rooms. When emotions are high, which is in most cases, joint sessions oftentimes needlessly increase the emotions and prolong the mediation process. If there is concern about joint sessions, the attorneys should discuss the issue with the mediator before the session. A neutral setting for the mediation is also highly preferred by most parties.

JUDICIAL CONSIDERATION

Classic mediation training encourages joint sessions at the beginning of the mediation. Attorneys should let the mediator know if they believe this will be helpful or harmful to a productive session.

f. "Stuck Points"

Successful mediation requires patience and works best when conducted over time and in incremental steps. As long as there is some movement towards common ground, there is a chance of success, even if the end goal seems impossible to achieve. An impasse occurs only when movement stops. The focus of the parties should be on what they are willing to do, not what they expect the other party "should" do. Bracket suggestions where a party or the mediator suggest new ranges of negotiations for all of the parties sometimes help move the process towards resolution. Sometimes, the parties' final "secret numbers" revealed to the mediator on a confidential basis near the end of the process produce a surprisingly close range, which can be helpful in moving past a "stuck point" and toward resolution.

g. Not Quite There

In complex cases involving many parties, multiple mediation sessions are usually necessary. In fact, it is not uncommon for such mediations to take multiple days for progress to be made, with breaks between the daily sessions. During adjournment, the mediator and the various attorneys may continue to exchange information and positions and communicate through email and by telephone.

ETHICAL CONSIDERATIONS

Ex parte communications between a party (or the attorney) and the mediator are permissible with the consent of the neutral and so long as the communication encourages or facilitates settlement. There is nothing to prohibit an attorney from contacting the mediator to discuss the case, but the mediator must make the determination whether the contact will encourage settlement and will not interfere with the quality of the process. MINN. GEN. R. PRAC. 114.10(b).

§ 2.4 ARBITRATION AND AWARDS

A. Minnesota Revised Uniform Arbitration Act – MINN. STAT. §§ 572B.01–572B.31

1. General Discussion

Arbitration is an adjudicative process consisting of a forum presided over by a "neutral third party [who] renders a specific award after presiding over an adversarial hearing ...." MINN. GEN. R. PRAC. 114.02(a)(1). (Proposed Rule 114.02(a)(1) provides that arbitration is a "process in which a Neutral or panel renders an award after consideration of the evidence and presentation by each party or counsel. The award may be binding or nonbinding, pursuant to the agreement of the parties.") The Minnesota Supreme Court has held that the basic intent of the Uniform Arbitration Act is to "discourage litigation and to foster voluntary resolution of disputes in a forum created and controlled by the written agreement of the contracting parties." *Eric A. Carlstrom Constr. Co. v. Indep. Sch. Dist. No. 77*, 256 N.W.2d 479, 483 (Minn. 1977). The emphasis in arbitration is on voluntary, informal, timely, and relatively inexpensive procedures designed to resolve disputes. In 2010, Minnesota adopted the Revised Uniform Arbitration Act, MINN. STAT. §§ 572B.01–572B.31, to govern arbitration procedures, which replaced the Uniform Arbitration Act that had been in place in Minnesota since 1957. However, when the arbitration agreement involves interstate commerce, the Federal Arbitration Act (FAA), which is applicable in both state and federal court proceedings, preempts inconsistent provisions of Minnesota law. *See* 9 U.S.C. § 2; *Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440, 445 (2006); *Onvoy, Inc. v. SHAL, LLC*, 669 N.W.2d 344, 351 (Minn. 2003). For additional information, see *infra* section 2.4.C.1.

JUDICIAL CONSIDERATION

Counsel should have an early meeting with the arbitrator(s) to work out and memorialize the details of the arbitration agreement. It is important to clearly define the responsibilities and duties of the arbitrator(s).

a. Agreed Terms

Contracting parties have considerable discretion in defining what is included within their arbitration agreement. They may choose to narrowly limit arbitration of future controversies or to comprehensively provide

that all disputes, whether relating to the contract or growing out of the relationship of the parties, should be included. *Layne-Minn. Co. v. Regents of the Univ. of Minn.*, 123 N.W.2d 371, 375 (Minn. 1963).

An arbitration agreement may also take into account any number of issues and the manner of resolution. Because courts continue to view arbitrators as having broad power under general arbitration clauses, attorneys drafting arbitration agreements would be wise to include specific provisions addressing some recurring issues that arise on appeal. In addition to establishing the number of arbitrators, venue, and choice of law, these could include:

- discovery parameters;
- hearing procedure and location;
- time limits;
- motion practice;
- arbitrator authority on issues such as sanctions and remedies;
- rules of evidence;
- procedure;
- liquidated damages;
- allowance or disallowance for punitive damages;
- provision for attorney fees;
- modification of statute of limitations;
- allocation of the arbitration fee;
- valuation and appraisal methodology (may also be determined by the parties up front to avoid some of the future delays and disputes that often time accompany these issues);
- findings, reasoned decision, simple answer, or award; and
- use of transcripts.

An award issued following an arbitration in which an arbitrator has not followed the parties' agreed-upon arbitration terms may be vacated because the arbitrator exceeded his or her powers. *See* MINN. STAT. § 572B.23(a)(4); *Children's Hosp., Inc. v. Minn. Nurses Ass'n*, 265 N.W.2d 649, 652 (Minn. 1978) (determining that an arbitration award may be set aside when an arbitrator has exceeded the power granted to him in the arbitration agreement). The terms for vacatur are similar under the FAA; for example the Fifth Circuit held that when an arbitrator acted contrary to the express provisions of an arbitration agreement, the arbitrator exceeded his powers and vacatur of the award was appropriate. *PoolRe Ins. Corp. v. Organizational Strategies, Inc.*, 783 F.3d 256, 262–65 (5th Cir. 2015).

b. Pre-Arbitration Meeting

Rules, timing, and arbitration protocol should be reduced to writing by the arbitrator after agreed to by the parties so that the hearing runs smoothly.

c. Selecting an Arbitrator

Selecting an arbitrator requires careful due diligence of backgrounds and prior awards. An arbitrator's business and professional background and associations, political leanings, civic work, activities, and associations could pose a potentially troublesome conflict of interest or bias for a party. An attorney's selection methodology should include some independent research on proposed arbitrators as an arbitrator disclosure report may not always include such information. Independent research, such as Internet searches, may provide valuable information, including an arbitrator's prior awards or experience with certain types of cases, in addition to the information that an arbitrator voluntarily and summarily may be obligated to disclose.

d. Vacatur of Awards

Although parties sometimes treat arbitration like litigation by engaging in extensive motion practice and discovery (particularly in complex matters), the courts still apply the traditional non-litigation arbitral standard of review to appeals of arbitration awards. It is important to keep in mind that arbitration was established to be, and remains, an informal, private, agreed-to process that is a speedy and inexpensive dispute resolution method. Notwithstanding the trappings of such litigation techniques, in arbitration, the principle of the finality of an award, with few exceptions, remains settled law in both state and federal courts. *See Goddard v. King*, 41 N.W. 659, 661 (Minn. 1889) ("[w]here parties have by their agreement made the arbitrators judges between them of the law and fact, they are bound by the decision, if fairly and honestly made, even though the arbitrators have erred in their conclusions of fact, or in the law which they have applied to them."). Given the limited grounds on which a court may grant reversal of an arbitration award, the cost and utility of certain measures, such as ordering a transcript of the arbitration hearing, should be carefully evaluated before incurring such an expense.

If there is one issue in which the courts do scrutinize carefully and enforce, it is that regarding arbitrator bias/conflict of interest and lack of disclosure. Evident partiality, which arose in the common law and was later codified, is a ground for vacatur under both the FAA, 9 U.S.C. § 10, and the Minnesota Revised Uniform Arbitration Act, MINN. STAT. § 572B.23. The United States Supreme Court has long held that a party involved in arbitration is entitled to a just and fair arbitration, and that an arbitrator "not only must be unbiased but also must avoid even the appearance of bias." *Commonwealth Coatings Corp. v. Continental Cas. Co.*, 393 U.S. 145, 150 (1968) (reversing and vacating award granted under impression of bias on the part of neutral arbitrator). In *Commonwealth Coatings*, the United States Supreme Court held that vacation of the arbitral award was proper when the arbitrator failed to disclose prior "sporadic" business dealings with one of the parties because the failure to disclose created an inference of bias. *Id.*; *Nw. Mech., Inc. v. Pub. Util. Comm'n*, 283 N.W.2d 522 (Minn. 1979) (holding an arbitration award must be set aside if there exist undisclosed business dealings between an arbitrator and a party). The requirement of candid and thorough disclosure of material information and relations continues after the arbitration is commenced. *See* MINN. STAT. § 572B.12(b). See *infra* section 2.4.A.3 for a complete listing of grounds for vacatur under the Minnesota Revised Uniform Arbitration Act.

2. Selection of Non-Binding or Binding Arbitration

Under Minnesota General Rule of Practice 114.09(a), the parties can choose whether the arbitration is binding or non-binding. Minnesota General Rule of Practice 114.09(a), further provides significant flexibility to the parties to "select a set of rules to govern the [arbitration] process." The arbitration agreement must state which rules govern. Under the current Minnesota General Rule of Practice 114, if the parties elect binding arbitration and their arbitration agreement is silent, the arbitration shall be conducted under Minnesota Statutes chapter 572B (Revised Uniform Act). If the parties elect non-binding arbitration and their agreement is silent, Minnesota General Rule of

Practice 114.09(b) through (f) applies. (Proposed Rule 114.09 greatly simplifies the rule on arbitration proceedings—for both binding and non-binding arbitration, parties may make their own rules or, if no rules are stated, Minnesota Statutes chapter 572B applies.)

While ex parte communication is generally permitted in the non-adjudicated processes, unless the parties and their representatives agree, there should be no ex parte communication during any of the adjudicated processes, including arbitration, as specified in the rule. MINN. GEN. R. PRAC. 114.10(a)–(b). (These provisions remain the same in the Proposed Rule 114.10(a)–(b).) Arbitrators should strictly enforce this safeguard to ensure a fair and impartial proceeding.

a. Non-Binding Arbitration

The procedures regarding non-binding arbitration are more flexible in terms of procedure and evidence. *See* MINN. GEN. R. PRAC. 114.09. The rules of evidence are more informal and flexible with "[r]elevancy ... liberally construed in favor of admission." MINN. GEN. R. PRAC. 114.09(b)(2). The arbitrator may consider documents, reports, and affidavits. MINN. GEN. R. PRAC. 114.09(b)(2)(i), (ii) & (iv). In a non-binding arbitration, the arbitrator's powers include administering oaths, permitting testimony to be offered by deposition, ruling upon the admissibility and relevance of evidence offered, deciding the law and facts of the case, and making awards. Any award must be issued within 10 days of the end of the hearing. The rule provisions regarding non-binding arbitration further provide that a party may make a request for trial within 20 days after the filing of the decision of the arbitrator, in which case the case is restored to the civil calendar for a trial de novo. If no request for a trial has been made within 20 days after the award is filed, the decision of the arbitrator is entered as a judgment in the case. MINN. GEN. R. PRAC. 114.09(e)–(f). (Proposed Rule 114.09 removes these provisions and simplifies the rule on arbitration proceedings. The proposed Rule 114 provides that for both binding and non-binding arbitration, the parties may make their own rules, or if there are no express agreed upon rules, Minnesota Statutes chapter 572B govern the proceeding.)

b. Binding Arbitration

If the parties stipulate in writing that the arbitration is to be binding, and their agreement to arbitrate is silent regarding what rules govern, then the arbitration is conducted pursuant to the Minnesota Revised Uniform Arbitration Act. MINN. STAT. §§ 572B.01–572B.31. In addition to providing that any written agreement to submit a dispute to arbitration is "valid, enforceable, and irrevocable," the Act also provides that if a party shows an agreement to arbitrate and the other party refuses, the court shall order the parties to proceed with arbitration if it finds there is an enforceable agreement to arbitrate. MINN. STAT. §§ 572B.06–572B.07. At the arbitration hearing, the parties are entitled to be heard, to present evidence, and to cross-examine witnesses appearing at the hearing. MINN. STAT. § 572B.15(d).

3. Courts' Limited Role in Arbitration: Generally

The Minnesota Revised Uniform Arbitration Act has granted the courts very limited authority to affect an arbitration award. These limited powers are delineated in Minnesota Statutes sections 572B.18 and 572B.22 through 572B.25, and include a 90-day time limit after delivery of the award to take action or to modify the award. Appeals are governed in a similar fashion as orders or judgments in a civil action. *See* MINN. STAT. § 572B.28.

Minnesota Statutes section 572B.24(a) provides that a court may modify or change an award upon motion by a party under certain circumstances (and the FAA similarly provides in 9 U.S.C. § 11 that a court may modify or change an award under similar circumstances):

> (1) there was an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award;
>
> (2) the arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision upon the claims submitted; or
>
> (3) the award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

Minnesota Statutes section 572B.23(a) provides that upon a party's motion, the court shall vacate an arbitration award under very limited circumstances (and the FAA similarly provides in 9 U.S.C. § 10 that a court may vacate an arbitration award under these circumstances):

> (1) the award was procured by corruption, fraud, or other undue means;
>
> (2) there was:
>
> (A) evident partiality by an arbitrator appointed as a neutral;
>
> (B) corruption by an arbitrator; or
>
> (C) misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;
>
> (3) an arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 572B.15, so as to prejudice substantially the rights of a party to the arbitration proceeding;
>
> (4) an arbitrator exceeded the arbitrator's powers;
>
> (5) there was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under section 572B.15, subsection (c), not later than the commencement of the arbitration hearing; or
>
> (6) the arbitration was conducted without proper notice of the initiation of an arbitration as required in section 572B.09 so as to prejudice substantially the rights of a party to the arbitration proceeding.

The scope of appellate review of an arbitration award is extremely narrow, and courts will vacate awards only if a statutory ground for vacatur is proven. *Liberty Mut. Ins. Co. v. Sankey*, 605 N.W.2d 411, 413 (Minn. Ct. App. 2000). Because "an arbitrator is to be the final judge of both law and fact," a court's appellate review will not rule on the merits of an arbitration decision. *Metro. Airports Comm'n v. Metro. Airports Police Fed'n*, 443 N.W.2d 519, 524 (Minn. 1989).

4. Courts' Role in Arbitration: Standards of Interpretation – Minn. Stat. § 572B.06

a. Whether Arbitration Agreement Exists and Controversy Is Subject to the Agreement

The Revised Uniform Arbitration Act, Minn. Stat. § 572B.06(b), provides that "[t]he court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate...."

b. Condition Precedent and Enforceability of Contract

Minnesota Statutes section 572B.06(c) provides, in contrast, that an "arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable."

5. Courts' Role in Arbitration: To Compel or Stay Arbitration – Minn. Stat. § 572B.07

Under Minnesota Statutes section 572B.07, a party may petition the district court to compel or stay arbitration. If there is a disagreement on the existence of the agreement to arbitrate, the court, upon application of the party "shall proceed summarily to decide the issue." Minn. Stat. § 572B.07(b). "When determining whether parties agreed to arbitrate an issue, the court analyzes whether a valid arbitration agreement exists and, if so, whether the dispute falls within the scope of the agreement." *Churchill Envtl. & Indus. Equity Partners, L.P. v. Ernst & Young, L.L.P.*, 643 N.W.2d 333, 337 (Minn. Ct. App. 2002). Arbitrability issues are determined by ascertaining the intention of the parties from the language of the arbitration agreement. *Cloquet Educ. Ass'n v. Indep. Sch. Dist. No. 94, Cloquet*, 344 N.W.2d 416, 418 (Minn. 1984). Any doubts about arbitrability shall be resolved in favor of arbitration. *Johnson v. Piper Jaffray, Inc.*, 530 N.W.2d 790, 795 (Minn. 1995).

In *City of Rochester v. Kottschade*, 896 N.W. 541 (Minn. 2017), the Minnesota Supreme Court reviewed a district court order directing entry of judgment. The district court compelled arbitration upon Kottschade's motion and, rather than staying the underlying action until arbitration was completed, the court directed entry of judgment, and judgment was entered. Upon the city's appeal in which it argued that the district court's order was a final judgment because it dismissed the underlying proceeding, the court of appeals dismissed the appeal as taken from a nonfinal order and judgment. The Minnesota Supreme Court reversed, determining that the district court did not have authority to direct the entry of final judgment on the underlying action and remanded with instructions for the district court to vacate the judgment and enter an order to stay the underlying action until arbitration is completed. This decision was consistent with prior case law and Minnesota Statutes section 572B.07(f), which requires district courts to impose a stay when entering an order compelling arbitration.

Following *City of Rochester*, the Minnesota Supreme Court considered the scope of appellate review of a district court order dismissing a case and ordering arbitration when the order is based on the legal conclusion that the contract requiring arbitration is enforceable. In *Woischke v. Stursberg & Fine, Inc.*, 920 N.W.2d 419 (Minn. 2018), the district court had granted a motion to dismiss a claim and compel arbitration based on an arbitration clause in a fee agreement, concluding that the fee agreement was not void. The court of appeals reversed, concluding not only that the district court order was appealable, but also that the fee agreement was void. The Minnesota Supreme Court determined, however, that the court of appeals erred by concluding that it had jurisdiction over the case. The court concluded that it was immaterial that the district court had opined on the validity of the fee agreement and that appellate courts are without jurisdiction to take any action "beyond directing the district court to vacate the judgment and to enter a stay of the underlying action pending completion of the arbitration." *See Woischke*, 920 N.W.2d at 423 (determining that under the Minnesota Uniform Arbitration Act, upon a district court grant of a motion to compel

arbitration based on a determination that an arbitration agreement exists and the dispute is arbitrable, the district court must stay, and not dismiss, the judicial proceedings).

Regarding awards to prevailing parties, the Minnesota Court of Appeals has determined that a party is not entitled to fees and costs as a prevailing party if the party is only successful in obtaining an order compelling arbitration and does not prevail in the principal action. *Elsenpeter v. St. Michael Mall, Inc.*, 794 N.W.2d 667 (Minn. Ct. App. 2011).

6. Similar Limited Court Role Under the FAA

The FAA and the Minnesota Revised Uniform Arbitration Act have similar provisions invoking the power of the courts in arbitration cases. They are as follows:

	FAA	Revised Act
Compel or Stay Arbitration	9 U.S.C. § 4	MINN. STAT. § 572B.07
Confirming Awards	9 U.S.C. § 9	MINN. STAT. § 572B.22
Enforcement and Entry of Judgment	9 U.S.C. § 9	MINN. STAT. § 572B.25
Vacating Award	9 U.S.C. § 10	MINN. STAT. § 572B.23
Modification or Correction of Award	9 U.S.C. § 11	MINN. STAT. § 572B.24
Appeals	9 U.S.C. § 16	MINN. STAT. § 572B.28

(See *supra* section 2.4.A.3 for specific information regarding modification or correction of an award and vacating an award under the FAA and the Revised Act.)

B. No-Fault Automobile Insurance Arbitration

In 1975, Minnesota established the no-fault auto insurance arbitration system. *See* MINN. STAT. § 65B.525. The system is administered by a 12-member no-fault standing committee appointed by the Minnesota Supreme Court. Day-to-day administration of the system is conducted by an administration organization designated by the standing committee. Currently that organization is the American Arbitration Association, located at 200 South Sixth Street, Suite 700, Minneapolis, MN, 55402, (612) 332-6545, website: <www.adr.org>. The Minnesota No-Fault Comprehensive or Collisions Damage Automobile Insurance Arbitration Rules (hereinafter "MINN. R. NO-FAULT ARB."), available at the Minnesota Revisor's website at <www.revisor.mn.gov/court_rules/rule.php?name=msnflt-toh>, govern these proceedings. In October 2017, the Minnesota Supreme Court ordered that the standards of conduct for Minnesota no-fault arbitrators be published as an appendix to the No Fault Comprehensive or Collision Damage Automobile Insurance Arbitration Rules, with an effective date of January 1, 2018. The stated purpose is "to provide guidance in order to promote a fair, neutral, and impartial panel of arbitrators." Order Promulgating Amendments to the Rules of No-Fault Insurance Arbitration, (Oct. 16, 2017), <https://mn.gov/law-library-stat/archive/supct/2017/ORADM098011-101617.pdf>. The standards of conduct consist of: integrity and fairness; disclosures; communications; hearing proceedings; decisions, orders, and awards; trust and confidentiality; time and availability; arbitrator qualifications; and enforcement procedures, with detailed guidelines provided for each standard. *Id.*

Arbitration is statutorily mandated for all claims for no-fault benefits and comprehensive or collision damage coverage when the total amount of the claim is in an amount of $10,000 or less at the commencement of arbitra-

tion. MINN. R. NO-FAULT ARB. 6. When a respondent insurance company denies such a claim, it must advise the claimant of the right to demand arbitration. MINN. R. NO-FAULT ARB. 5. Claims for over $10,000 may also be arbitrated if, after denying a claim, the respondent insurance company advises a claimant that it is willing to submit the claim to arbitration. The respondent insurance company is required to advise claimants that information regarding arbitration procedures may be obtained from the arbitration organization.

No-fault arbitration initiates when a claimant files the signed petition form, including the required filing fee, with the arbitration organization. Within 30 days of the filing of the arbitration form, the claimant must file itemization of benefits claimed, MINN. R. NO-FAULT ARB. 5(f), and supporting documentation, amounts owing, name of providers, and dates of service. Respondent insurance company then has 30 days to respond after receiving claimant's itemization of benefits claimed and the supporting document. *See* MINN. R. NO-FAULT ARB. 5(g).

- *Filing fee:* The claimaint's filing fee is $40, and the respondents filing fee is $150. MINN. R. NO-FAULT ARB. 39.
- *Postponement fees:* A party requesting to reschedule or cancel a hearing shall be charged a $100 fee. MINN. R. NO-FAULT ARB. 41.
- *Arbitrator fee:* The arbitrator is paid $300 for arbitrating a contested claim. If, up to 24 hours before the scheduled hearing, the arbitration organization is notified of a settlement or a withdrawal of a claim, the arbitrator's fee is $50. MINN. R. NO-FAULT ARB. 40.
- *Selection of arbitrator:* There is a comprehensive set of rules that govern this procedure. The rules provide for selection, challenge, qualifications, and filling of vacancies. MINN. R. NO-FAULT ARB. 8–11. Evidentiary matters are also included in the rules, along with procedures for witnesses, discovery, and time limits.
- *Withdrawal:* A claimant may withdraw a petition for arbitration until 10 days before the hearing. Upon withdrawal, the claimant is responsible for the arbitrator's fee. MINN. R. NO-FAULT ARB. 13.
- *Time and place of arbitration:* The arbitrator shall determine the time and place for the arbitration hearing. Hearings must be held within 50 miles of the petitioner, which has proven to be difficult in greater Minnesota. Each party will be notified of the time and place of arbitration at least 14 days before the hearing. MINN. R. NO-FAULT ARB. 14.

Awards must be issued within 30 days from the date the hearings are closed. MINN. R. NO-FAULT ARB. 30–33.

The Minnesota Supreme Court has held that under the Minnesota No-Fault Insurance Act, claims of immunity are to be determined by the district court before arbitration on the merits. *Fernow v. Gould*, 835 N.W.2d 8 (Minn. 2013).

statement or tape recording may help lock them in and preserve their current version of the facts. Will the witness be available at a later time? For example, are they moving away, likely to die, or some other similar scenario? Their statement might be helpful. If so, it is important to consider the elements that will make this statement admissible should it be needed in a later proceeding.

§ 3.5 PLAN FOR RESOLUTION

The lawyer should now develop a plan of how to resolve the case. It is helpful in many instances to consult the applicable jury instructions (CIVJIGs) from state or federal court to ensure that the plan for establishing liability and damages through the pleadings and discovery phases of the litigation are effective.

A. Pre-Suit Settlement

Is this case one that might settle before suit? The opposing side might benefit from early resolution and may be willing to attempt to resolve the case early on. For example, if the injury is a large one, the liability is clear, and the insurance coverage falls within the damages projected, an insurance company might want to settle to avoid bad-faith claims or litigation expenses. Sometimes, the adjuster is someone the lawyer has worked with in the past and the lawyer has been able to resolve the issues without forcing the lawyer to go through all the steps of litigation. Sometimes, the adjuster takes a posture that makes it apparent that he or she will not take the lawyer's case seriously. In that case, using the early resolution route will not work and the lawyer must move to prepare the case for litigation.

1. *Time issues.* The lawyer must determine if sufficient time exists to spend time trying to resolve the case. Is there a statute of limitations coming up soon, a change in the law that will be less favorable if sued out later, or a question of solvency for the responsible side that might deteriorate in the time litigation would require?

2. *Status of the case.* Does the case need to mature, i.e., are the damages not yet fully developed?

3. *Definition of issues.* Are issues well enough defined that it is amenable to early resolution?

4. *Client's expectations.* Will the client resist early resolution? Has the client been talking with other attorneys or family and friends, who may be counseling the client contrary to the lawyer's advice?

5. *Attitude of other party or insurer.* What is the attitude of other party or their insurer?

6. *Alternative dispute resolution.* Is there a good ADR process that will assist the parties to fully evaluate the case at this point?

B. Decision to Start Suit

This section discusses what to do if the lawyer decides it is time to start suit or commence an action.

1. Client Considerations

The lawyer will consider asking the client's permission to initiate suit, including an explanation of what the case will involve, order of discovery, what will be disclosed (e.g., medical records, corporate work-product), discussion of need for protective orders, and the effect the lawsuit will have on existing personal, professional, and business relationships, etc. A memorandum or letter to the client summarizing these points is a good practice.

Deadlock (cont)

2. Pre-Litigation Settlement Discussions

The lawyer needs to always consider whether it might be profitable for the parties to discuss settlement before starting the lawsuit. Will the other party agree to a "tolling" agreement (i.e., an agreement to toll the running of any statute of limitation pending resolution of settlement discussion)? A tolling agreement may also be appropriate to stay any eventual need to file the complaint within the one-year filing requirement set forth in Minnesota Rule of Civil Procedure 5.04. If so, then the other party may be signaling a serious willingness to discuss settlement. In some instances, drafting the complaint and sending it along with the demand letter informs the defendant(s) that the client is serious about starting the lawsuit. It also tells the defendant's counsel that it will not take much more work to file the pleading and start the action in federal court or serve it upon the defendant in state court.

3. In Minnesota State Court, Consider "Hip Pocket" Service of Process and Temporarily Postponing Filing the Complaint With the Court

Minnesota has one of the most unusual "commencements of an action" systems in the country. In Minnesota, a civil action is commenced not on the filing of the complaint, but upon service of process upon the defendant. This gives the lawyer who commences a lawsuit in Minnesota state court the opportunity to keep the commencement and existence of the lawsuit a private matter. More than one defendant has elected to settle a dispute—even after serving an answer and possibly undertaking initial discovery—rather than to make the dispute public. Proper and timely service of the complaint tolls all statutes of limitation, without any requirement that a pleading be immediately filed with the court.

As of July 1, 2013, the rules governing the filing of the initial compliant have been amended to require, in all non-family cases, that the complaint be filed within one year of commencement against any party or be subject to dismissal with prejudice. The paragraphs that follow discuss these rule changes and best practices to comply with them. The 2013 rules, however, do not change the ability of a party to commence an action in private—at least for one year. If settlement discussions break down or if motion practice is necessary, or if the opposing party refuses to answer discovery requests, either party can proceed to file their pleading with the court and involve the judge sooner than the one-year deadline. Once a pleading is filed, however, the matter is then public, and pulling it back from the public's eye and from the court, or asking the court to seal the record, is problematic and generally unavailing. Many a lawyer and client would have been better served by simply serving the complaint and/or answer and postponing filing the pleading with the court. Always consider this avenue of service, as there is no downside so long as counsel keeps in mind the one-year filing deadline, unless it is necessary to get the court involved from day one—such as with a TRO or other injunction.

4. New Rules Regarding Mandatory Filing of Non-Family Complaints Within One Year, of Commencement in Minnesota State Court

The Minnesota Supreme Court, in an order dated February 4, 2013, adopted proposed amendments to Minnesota Rules of Civil Procedure 3 and 5, instituting a new filing deadline of a non-family complaint. The rules governing service of process and commencement of a lawsuit in Minnesota remain unchanged, but a deadline for filing the complaint once it has been properly commenced (i.e., served) has been imposed. In short, the rule change states that unless the parties agree otherwise, or unless the action is one excluded under Rule 3 (i.e., a family case), the complaint must be filed with the court within one year of commencement against *any party* or be subject to dismissal with prejudice.

In 2015, the Minnesota Court of Appeals held that a party may seek relief under Minnesota Rule of Civil Procedure 60.02 from a judgment entered based on a party's noncompliance with Minnesota Rule of Civil

MINNESOTA JUDICIAL BRANCH

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Judgments

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Basics on Money Judgments

Definitions

- **"Judgment"** is a word that means "the judge's decision" or "the judge's order."
- **"Creditor"** is the party who won the case and is owed money (because a judgment was awarded by the court).
- **"Debtor"** is the party who lost the case and owes money to the creditor.
- **"Entry" or "Entered"** is the word used when a judgment is filed in the case by the Court Administrator. This usually starts the timeframe during which a judgment can be appealed.
- **"Docketed" or "Docketing"** is the word used when the creditor files an Affidavit of Identification form with the court. Docketing the judgment is the first step a creditor takes when they want to try to collect payment of the judgment.
-

"Levy" or "Execution Levy" is the action taken by the sheriff to collect money owed to the creditor.

Example: The creditor won the case against the debtor and a judgment was entered in the case. Then the creditor docketed the judgment and set up an execution levy by the sheriff.

How long does a judgment last?

A creditor has ten (10) years from the date the judgment was entered to collect the money owed to them by the debtor. A judgment can be "renewed" by the creditor if it is not satisfied (paid) within the 10 years. To enforce a judgment that was not paid during the 10-year timeframe, the creditor has to renew the judgment by **starting a new lawsuit before the end of the 10 year period,** based on a claim for failure to pay a judgment. See **Minn. Stat. § 541.04.** A new lawsuit is started by serving a *Summons* and *Complaint* on the judgment debtor. You should get legal advice from an attorney about how to prepare your papers. **Court staff cannot give legal advice.**

How do I show the court that a judgment has been paid?

The parties can make an agreement about paying the judgment, including making payments to the creditor over a period of time. **NOTE:** The judgment creditor can choose to accept a lesser amount to satisfy the judgment, but does not have to.

Once the judgment is paid in full, or is paid to the creditor's satisfaction, the next step is to let the court know that the judgment has been paid. To do this, the creditor completes a ***Satisfaction of Judgment*** form and files it with the court.

If the creditor does not complete the *Satisfaction of Judgment* form, the debtor can instead file a ***Motion and Affidavit Requesting Satisfaction of Judgment*** form with the court. This request will ask the court to update the court records to show that the judgment has been paid. Proof of payment must be attached to the motion and filed with the court.

How do I collect money after winning a judgment?

Even if you win a judgment in court, it is not always easy to collect the money. Sometimes a debtor's income or assets are "exempt" (protected) from collection under **Minn. Stat. § 550.37.** The court is not a collection agency and cannot locate assets of the debtor.

When your judgment is final, the appeal time is over, and if the judgment debtor has not paid, you can start trying to collect. If you are not sure whether there is an appeal period or if the appeal period is over, you may need to get legal advice from an attorney.

There are different statutes in Minnesota related to collecting judgments. The information below will explain *one* common way of collecting a **money judgment**, which is collecting money from the judgment debtor's wages or bank account using the **execution levy** process.

NOTE: The words "garnishment" and "levy" are often used in place of one another, but they are actually two different collection processes with different laws. For more information about the garnishment process, see **Minn. Stat. chap. 571** (scroll down to §571.71-§571.932).

There may be other options available to try and collect a judgment in addition to collecting money from wages or a bank accounts. To learn more about these other options, speak with an attorney to get legal advice.

STEP 1: Docket the Judgment

After you win a judgment, you then must have the judgment **"docketed." This process is sometimes called "transcribing the judgment." You can docket a judgment** by filing an ***Affidavit of Identification of Judgment Debtor*** form with court administration in the county where you won your judgment.

The court also publishes a form called an ***Affidavit of Identification of Judgment Creditor***. This form is only needed if you are docketing a judgment in Minnesota that was awarded in another state.

NOTE: The processes for docketing a judgment for child support or spousal maintenance are generally different than the process explained in this step. Please visit the court's **Child Support Help Topic** for more information on how to enter and docket a child support judgment. Please visit the court's ***Entry and Docketing Spousal Maintenance Judgments*** forms packet for the forms you will need to file in order to enter and docket a spousal maintenance judgment. Once your child support or spousal maintenance judgment is entered and docketed, you can try to collect your judgment by following the steps below.

STEP 2: Request an Order for Disclosure from court administration

If you already have information about where the debtor works and/or has a bank account, skip to Step 3. If you still need this information, you can file a ***Request for Order for Disclosure*** form with the court.

NOTE: If your case started in conciliation court, you can file a *Request for Order for Disclosure* right after the judgment is docketed. If your case started in district court, the judgment must be docketed for more than 30 days before you can file a *Request for Order for Disclosure*.

After you file a *Request for Order for Disclosure*, court administration will send the debtor an **Order for Disclosure** and a ***Financial Disclosure*** form. You will also get a copy of the Order for Disclosure for your records. The Order for Disclosure directs the debtor to fill out the *Financial Disclosure* form and mail the completed form back to you. The debtor has 16 days from the date the Order for Disclosure was sent to the debtor to return the completed *Financial Disclosure* form to you.

What if the debtor does not return the Financial Disclosure form to you?
If the debtor has not returned the *Financial Disclosure* form to you within 16 days of the date it was mailed by court administration, you could file an ***Affidavit in Support of Order to Show Cause***. If the judge determines that a hearing is required, the judge will issue an **Order to Show Cause** requiring the debtor to go to a hearing and explain why they did not return the *Financial Disclosure* form to you. **You will also likely need to attend the hearing**. If the debtor does not appear at the hearing, the judge may issue a bench warrant for the debtor's arrest.

What if the debtor returns the Financial Disclosure form but you do not agree with the debtor's answers?

If you want to dispute the information listed by the debtor on the *Financial Disclosure* form, you may be able to file a motion with the court and have a hearing in front of a judge on this issue. However, the MN Judicial Branch does not publish forms for this kind of motion, so you may need to get legal advice from an attorney to help you do this.

STEP 3: Send the debtor the Notice

If you want to try to collect a judgment from the debtor's earnings (also called "wages") continue with this step. If you would rather try to collect from the debtor's bank account, skip to Step 4.

If you are going to try to collect a judgment from the debtor's earnings, you **must first give a written notice** to the debtor. This notice is called an **Execution Exemption Notice and Notice of Intent to Levy on Earnings**, and it must be hand-delivered to the debtor **at least 10 days OR mailed to the debtor at least 13 days before** a Writ of Execution can be served by the sheriff (see Step 4). To help you with this step, the MN Judicial Branch has published a packet of forms called ***Execution Levy on Earnings***. This packet includes instructions, the Notice, and additional paperwork you will need to give to the sheriff later in the process. The instructions included in the packet also provide more information about some of the steps listed below.

NOTE: You do not need to wait for the 10 (or 13) days to pass before starting Step 4, but you should consider waiting for this period to pass before moving on to Step 5.

STEP 4: Request a Writ of Execution from court administration

After the judgment has been docketed and you have information about where the debtor works and/or has a bank account, you can pay a fee and ask court administration for a **Writ of Execution**. This document will direct the sheriff to start an execution levy on the debtor's wages or bank account.

Generally you can request a writ of execution in person at the courthouse or by writing a letter to court administration. When you request a Writ of Execution, you will need to give court administration information such as: the court file number, name and address of the debtor(s), the name and address of the debtor's employer or bank, and the name of the county the county where the debtor's employer or bank is located.

Contact court administration in the county where you will be requesting a Writ of Execution to see if they will need any additional information. Writs of Execution expire after 180 days. Generally, court administration can only issue one Writ of Execution in a county at a time.

STEP 5: Take the paperwork to the sheriff's office

Once you get the Writ of Execution from court administration, you must take the Writ of Execution to the sheriff's office it is directed to (in the county where the debtor works if you are trying to collect from their wages, or in the county where the debtor banks if you are trying to collect from their bank account).

NOTE: If you are going to try to collect from the debtor's **bank account**, there is more paperwork that the sheriff must serve on the debtor's bank along with the Writ of Execution. We suggest you to fill out and bring this paperwork to the sheriff along with the Writ of Execution. To help you with this step, the MN Judicial Branch has published a packet of forms called ***Execution Levy on Financial Institution***. The packet includes instructions and the other paperwork the sheriff will need.

NOTE: Remember, if you are going to try to collect from the debtor's earnings, you **must provide the written Notice** to the debtor first. (see Step 3). Also, don't forget to bring the sheriff the other paperwork from the ***Execution Levy on Earnings*** packet from Step 3.

STEP 6: (Optional) File an Affidavit of Increased Costs

When following the steps listed above, you will be required to pay certain fees to the court and the sheriff. It is possible to have the cost of these fees added to the amount of your judgment by filling out and filing an ***Affidavit***

of Increased Costs. Some counties may require proof of your expenses (for example, the fee you paid to the sheriff), so it is a good idea to keep your receipts. You can file more than one *Affidavit of Increased Costs* if needed.

NOTE: Judgment interest will be added to the amount of your judgment starting on the date the judgment was entered. This interest is calculated automatically by the court.

Garnishment and Your Rights

Garnishment is when someone freezes money in your **bank account** or your **paycheck** to get money the courts say you owe to them. They can't do this unless a court gives them a judgment against you or they served you with a lawsuit that you did not answer. You may not get a warning before the garnishment happens.

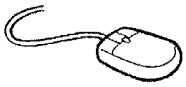
Sometimes, your money is protected – this is called "exempt" or an "exemption." This fact sheet can help you learn if your money and property is exempt.

There are 2 exemptions that are automatic.

- Your employer can't garnish money from your paycheck if you earn less than $290 a week. If you earn more than $290 a week, at least 75% of your earnings after taxes are automatically protected.

- Your bank account can't be garnished if you have automatic deposits of Social Security (RSDI), SSI or other Federal exempt benefits and your account has less than 2 months' worth of social security benefits.

The other exemptions in this fact sheet are **not** automatic. You have to send an "Exemption Claim" to protect your money. The form for this will be mailed to you. You can also get one online. Go to: www.mncourts.gov



→ Click on *Get Forms* on the menu
→ In the list click on *Judgment Enforcement*
→ Click on *Exemption*
→ In the list of Exemption Forms click on *Exemption Notice*

If your money is not exempt, try to work out a deal with the company or person that has a judgment against you. They might be okay with a payment plan, or even a final payment of less than the full amount. If you make a deal, put it in writing and signed by both sides. Keep a copy.

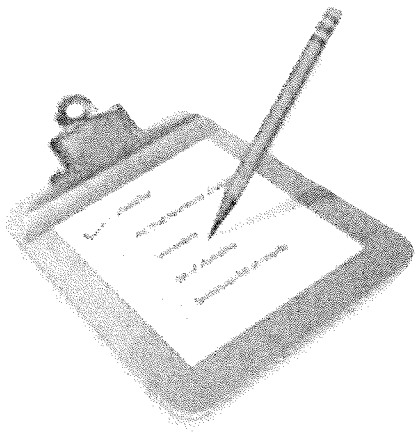
A non-profit debt counseling agency can help. Call the National Foundation for Credit Counseling (NFCC) at 1-(800) 388-2227 for a local office. **Watch Out** for companies that charge money to "repair" your credit or tell you to stop paying. Many of these are scams!

Can my benefits be garnished?

Usually, government assistance based on need can't be garnished by creditors. Assistance based on need includes programs like:

- MN Family Investment Program (MFIP)
- Emergency Assistance (EA)
- County Crisis funds
- Medical Assistance (MA)
- General Assistance (GA)
- MinnesotaCare
- SNAP (Food Support/Stamps)
- Minnesota Supplemental Aid (MSA)
- SSI
- Energy Assistance
- Medicare part B premiums
- Medicare part D extra Help

Note: This list does not include all programs that are assistance based on need. Courts have also ruled that EITC (Earned Income Tax Credit) money is exempt from most garnishments.



There are other programs based on need that may make it possible for you to claim an exemption. Examples of this include the School Lunch Program and Minnesota Family Planning Program.

If you have questions about your exemption, call your local legal aid office.

Programs like Social Security (Retirement, Survivor or Disability Insurance) and Veterans Benefits are also exempt from garnishment. This money is automatically protected when you have less than 2 months of benefits in your account. If you have more than 2 months' worth, the extra can be frozen – it is still exempt, but you have to claim the exemption to get it unfrozen. If you are not sure if your benefits are exempt talk to a lawyer or call your local legal services office.

BUT, there are times that this money is NOT safe. Get advice from a lawyer if someone has threatened to take your benefits.

For example:

- Social security benefits can be garnished to pay for debts like child support, student loans and income taxes. You must get a warning from the U.S. Treasurer before this happens.

- Also, your benefits can be reduced or stopped if your county decides that you got benefits that you shouldn't have. See our fact sheet *MFIP, GA, MSA and SNAP Overpayments*.

Can they take money from my bank account?

Your bank account can't be frozen, and the bank can't charge you garnishment fees if all of these things are true:

1. If you get: Social Security, SSI, Veteran's Pension, Federal Railroad Retirement, Civil Service Retirement, or Federal Employee Retirement System benefits

2. If these benefits are auto-deposited into the bank account

3. You don't transfer these benefits to a different account, and

4. The account balance is less than twice your monthly benefit. (For example, if your monthly benefit is $1000 (2 x $1000 = $2,000), then $2000 is automatically protected.)

If these things do not apply, then a garnishment might freeze the money in your bank account. You may not get a notice before this happens. You can still get your money back if you show it is exempt, but you won't be able to use your money in your account while it is frozen.

If the creditor has a judgment against you then they don't have to give you a warning before they garnish your account. **The bank will send you a notice after the money is frozen.** The notice tells you your rights about exemptions and will have forms you can use to claim your exemptions. See page one for other ways to get these forms.

The creditor might be able to garnish you *before* they get a judgment if you did not answer a summons and complaint. In this case they must give you a notice before they garnish your funds. If you get a notice before garnishment, you can claim your exemptions before the garnishment to try and avoid it. If you have defenses (reasons that you don't owe the money) you might also be able to respond to (answer) the lawsuit and explain why you don't owe the money.

See our fact sheet *What to Do if You Are Sued*.

If you have written checks or if you have any automatic payments scheduled - they may bounce if your account is frozen!! You will owe fees!

It will take time before your bank will release your funds. Talk to the people you wrote checks to and tell them about the problem. If you have set up automatic payments, these will bounce also. Cancel your automatic payments! Talk to the bank manager about what is happening. They might agree to cancel overdraft charges.

- Money in your bank account is exempt from **most** types of debts if your money is from:
  - Government assistance based on need and most other public benefits (see section above)
  - unemployment benefits
  - workers' compensation
  - (most) pensions

- life insurance proceeds
- veterans' benefits
- the earnings of your minor child
- any child support paid to you
- insurance claims for exempt property
- disability insurance benefits

- Courts in Minnesota have also ruled that EITC (Earned Income Tax Credit) money is exempt from most garnishments.

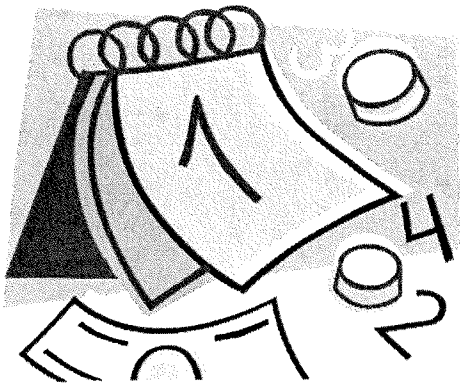
- Student loan money is usually exempt but other kinds of loans might not be.

- Sometimes money that is usually protected is **not exempt if they are collecting** debts like:
  - child support
  - alimony
  - student loans or
  - taxes

- Gifts, and other peoples' money, are **not protected** from garnishment when they are put in your bank account. **BUT**, if you have a **joint account**, the other person's money may be protected if they don't owe the debt. Talk to a lawyer right away.

- Exempt earnings only stay exempt for 20 or 60 days after you deposit them in the bank. See section below "Can They Take Money from my Paycheck?"

How do I claim a bank account exemption?



If the creditor gives you a garnishment notice, follow the instructions in the notice right away. If your income is exempt, **send** proof of your exemptions to the creditor. Keep copies of what you send. Phone calls are **not** enough.

The bank must send you a written notice and exemption forms *after* the money in your account has been frozen. If your money is exempt (see above) fill out **BOTH** exemption notices. Give one to the person or company who is garnishing you and one to your **bank**. Keep a copy.

You must send a copy of your bank statements for the past 60 days to the creditor with your exemption claim. For example, if your bank was garnished on April 12th then you need to send your bank statements covering February 12th to April 12th. If your bank statements don't list where the money from a deposit comes from, you should also send deposit slips or other proof that the money came from an exempt source.

If the creditor does not object to your claim in 6 business days, the bank should put the money back into your account. If the bank does not get your exemption notice within 14 days, it will keep holding your money or give it to the collector. You can still claim your exemptions after 14 days and after the money is sent to the creditor, but it will take longer to get your money back.

Can they take money out of my paycheck?

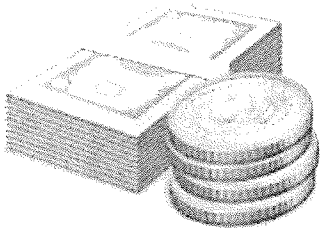
Your paycheck should be completely exempt if:

- You are getting or got government assistance based on need in the last 6 months (see section on benefits above)
- You were an inmate in jail or a correctional institution in the last 6 months.

These 2 things exempt your paycheck for **60 days** after you deposit it in your bank.

I don't have those exemptions. How much can they take?

Most of your paycheck is protected - even if you don't get government assistance. Usually, they can only take up to 25% of your after-tax earnings as long as you still get a minimum of a $290 per week.



- **ONLY 20 DAYS**: This "25% limit" also applies to paychecks deposited into your bank account – but only for 20 days. Example: if you deposit a $1000 paycheck into your bank, $250 can be garnished right away and the other $750 could be garnished after 20 days.
- **BUT- if the garnishment is for child support**, then up to 65% of your earnings can be withheld.
- **NOTE:** If you **own your business** or are an **independent contractor**, then these wage exemptions may not apply. Talk to a lawyer.

How do I claim a paycheck exemption?

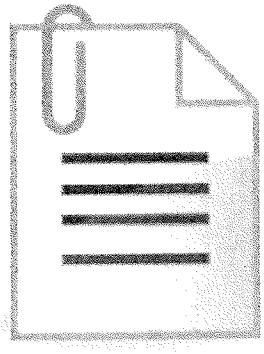
You should get written notice at least 10 days before your paycheck gets garnished for the first time. Find out if your money is exempt (see above). If your earnings are exempt, fill out the exemption notice that comes with the letter. Send 1 copy to the person or company who is garnishing you, 1 copy to your employer and keep a copy for yourself. Do this as soon as possible. **If you don't do it within 10 days, you can still claim the exemption**, but it will take longer to stop the garnishment and get your money back. Phone calls are not enough.

What happens after I claim an exemption?

You can call the creditor and ask when they will give your money back. The creditor might ask you for more information or proof, like benefits statements. You might get your money returned sooner if you send them the proof that they ask for. You might need to talk to a lawyer to help you prove your exemption claim.

What if the creditor objects?

If the creditor wants more information or disagrees with your exemption claim, they have to ask for a court hearing within 6 business days to see if your money is exempt. They will send you a form to tell you the reason for the objection and when the court hearing will be. If you have more proof, you can send it again. It is possible to solve the issue before the hearing.



If you have to go to court remember to bring all documents that will help prove your exemption. If they froze the money in your bank account, be sure to bring bank statements for the last 60 days to the hearing. Also bring proof of where the garnished money came from so you can prove exemptions.

If you have to go to court but can't go on the day that is set, you can ask the court to have the hearing on a different day - **you need to do this before the hearing**. Contact the court as soon as you know that you need a different day. **Note:** changing the date is up to the court. **They might not change the date.**

IMPORTANT: If you don't claim your exemptions or ask for a hearing on time, you can still do it later. You never lose your right to stop a garnishment or to get your exempt money back. Never rely on advice from a creditor or debt collector.

571.925 FORM OF NOTICE.

The ten-day notice informing a debtor that a garnishment summons may be used to garnish the earnings of an individual must be substantially in the following form:

STATE OF MINNESOTA — DISTRICT COURT

COUNTY OF ..... — .....JUDICIAL DISTRICT

.....(Creditor)

against

.....(Debtor)

and

.....(Garnishee)

GARNISHMENT EXEMPTION NOTICE AND NOTICE OF INTENT TO GARNISH EARNINGS

PLEASE TAKE NOTICE that a garnishment summons or levy may be served upon your employer or other third parties, without any further court proceedings or notice to you, ten days or more from the date hereof. Some or all of your earnings are exempt from garnishment. If your earnings are garnished, your employer must show you how the amount that is garnished from your earnings was calculated. You have the right to request a hearing if you claim the garnishment is incorrect.

Your earnings are completely exempt from garnishment if you are now a recipient of assistance based on need, if you have been a recipient of assistance based on need within the last six months, or if you have been an inmate of a correctional institution in the last six months.

Assistance based on need includes, but is not limited to:

MFIP - Minnesota family investment program,
MFIP Diversionary Work Program,
Work participation cash benefit,
GA - general assistance,
EA - emergency assistance,
MA - medical assistance,
EGA - emergency general assistance,
MSA - Minnesota supplemental aid,
MSA-EA - MSA emergency assistance,
Food Support,
SSI - Supplemental Security Income,
MinnesotaCare,
Medicare Part B premium payments,
Medicare Part D extra help,
Energy or fuel assistance.

If you wish to claim an exemption, you should fill out the appropriate form below, sign it, and send it to the creditor's attorney and the garnishee.

You may wish to contact the attorney for the creditor in order to arrange for a settlement of the debt or contact an attorney to advise you about exemptions or other rights.

PENALTIES

(1) Be advised that even if you claim an exemption, a garnishment summons may still be served on your employer. If your earnings are garnished after you claim an exemption, you may petition the court for a determination of your exemption. If the court finds that the creditor disregarded your claim of exemption in bad faith, you will be entitled to costs, reasonable attorney fees, actual damages, and an amount not to exceed $100.

(2) HOWEVER, BE WARNED if you claim an exemption, the creditor can also petition the court for a determination of your exemption, and if the court finds that you claimed an exemption in bad faith, you will be assessed costs and reasonable attorney's fees plus an amount not to exceed $100.

(3) If after receipt of this notice, you in bad faith take action to frustrate the garnishment, thus requiring the creditor to petition the court to resolve the problem, you will be liable to the creditor for costs and reasonable attorney's fees plus an amount not to exceed $100.

Dated: .....

.....

(Attorney for) Creditor

.....

Address

.....

Telephone

DEBTOR'S EXEMPTION CLAIM NOTICE

I hereby claim that my earnings are exempt from garnishment because:

(1) I am presently a recipient of relief based on need. (Specify the program, case number, and the county from which relief is being received.)

....

Program Case Number (if known) County

(2) I am not now receiving relief based on need, but I have received relief based on need within the last six months. (Specify the program, case number, and the county from which relief has been received.)

....

Program Case Number (if known) County

(3) I have been an inmate of a correctional institution within the last six months. (Specify the correctional institution and location.)

....

761

Correctional Institution Location

I hereby authorize any agency that has distributed relief to me or any correctional institution in which I was an inmate to disclose to the above-named creditor or the creditor's attorney only whether or not I am or have been a recipient of relief based on need or an inmate of a correctional institution within the last six months. I have mailed or delivered a copy of this form to the creditor or creditor's attorney.

....

Date Debtor

.....

Address

.....

Debtor Telephone Number

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF ....JUDICIAL DISTRICT

.....(Creditor)

.....(Debtor)

.....(Financial institution)

History: *1986 c 444; 1990 c 606 art 3 s 33; 1999 c 159 s 150; 2000 c 405 s 24; 2009 c 31 s 11; 2015 c 21 art 1 s 109*

763

MINNESOTA JUDICIAL BRANCH

Face coverings required in court facilities.
The response to COVID-19 has impacted access to courthouses and may change the way cases are handled.
Learn more »

District Court Fees

Back to Previous Page

FAQs

Appellate Court Fees

Court users are required to pay fees for filing and for services as set out in Minnesota law. If you cannot afford to pay a court fee, you can **ask to have the fee reduced or waived.**

Please Read: Court Fee Changes Effective July 1, 2017

The Minnesota Base Fees amounts do not include county law library fees. Select your county to see the total fee amounts including any applicable law library fee amount. Make checks payable to: **District Court Administrator**

Ramsey County District Court Fees

Civil Action or Proceeding

Filing a motion or response to a motion in civil, family (excluding child support), and guardianship cases
Total Fee: $75.00
Fee Calculation: Base Fee $75
Authorization: Minn. Stat. § 357.021 , subd. 2(4), Court Operations Policy 506(h)

Issuing all Writs/Filing return
Total Fee: $55.00
Fee Calculation: Base Fee $55
Authorization: Minn. Stat. § 357.021 , subd. 2(5)

Name Change
Total Fee: $300.00
Fee Calculation: Base Fee $285 + Law Library Fee $15
Authorization: Minn. Stat. § 357.021 , subd. 2(1), 134A.09, 134A.10

Party Requesting Trial by Jury at Same Time First Paper Filed
Total Fee: $400.00
Fee Calculation: Base Fee $285 + Jury Trial Fee $100 + Law Library Fee $15
Authorization: Minn. Stat. § 357.021 , subd. 2(1), 134A.09, 134A.10

Plaintiff / Petitioner and Defendant / Respondent - First Paper Filed
Total Fee: $300.00
Fee Calculation: Base Fee $285 + Law Library Fee $15
Authorization: Minn. Stat. § 357.021 , subd. 2(1), 357.021, 134A.10

Request for Trial by Jury
Total Fee: $100.00
Fee Calculation: Base Fee $100
Authorization: Minn. Stat. § 357.021 , subd. 2(1)

Subpoena - For Each Name
Total Fee: $16.00
Fee Calculation: Base Fee $16
Authorization: Minn. Stat. § 357.021 , subd. 2(3)

Trust Accounts (Annual or Partial)
Total Fee: $55.00
Fee Calculation: Base Fee $55
Authorization: Minn. Stat. § 357.021 , subd. 2(10)

Ramsey County District Court Fees

Conciliation

Aggrieved Party Appeal

Total Fee: $300.00
Fee Calculation: Base Fee $285 + Law Library Fee $15
Authorization: Minn. Stat. § 357.021 , subd. 2(1), 134A.09, 134A.10, Conciliation Court Rule 521.b

Aggrieved Party Appeal by Jury

Total Fee: $400.00
Fee Calculation: Base Fee $285 + Jury Trial Fee $100 + Law Library Fee $15
Authorization: Minn. Stat. § 357.021 , subd. 2(1), 134A.09, 134A.10, Conciliation Court Rule 521.b

Plaintiff / Petitioner and Defendant / Respondent - First Paper Filed

Total Fee: $80.00
Fee Calculation: Base Fee $65 + Law Library Fee $15
Authorization: Minn. Stat. § 357.022, 134A.09, 134A.10.

Judgments

Application for Discharge of Judgment

Total Fee: $5.00
Authorization: Minn. Stat. § 548.181 , subd. 1

Assignment of Judgment

Total Fee: $5.00
Fee Calculation: Base Fee $5
Authorization: Minn. Stat. § 357.021 , subd. 2(7)

Certificate of Discharge of Judgment

Total Fee: $5.00
Authorization: Minn. Stat. § 548.181 , subd. 3a

Confession of Judgment

Total Fee: $300.00
Fee Calculation: Base Fee $285 + Law Library Fee $15
Authorization: Minn. Stat. § 357.021 , subd. 2(1), 134A.09, 134A.10

Foreign Judgment Filing greater than $15,000

Total Fee: $300.00
Fee Calculation: Base Fee $285 + Law Library Fee $15
Authorization: Minn. Stat. § 548.30, 357.021 , subd. 2(1), 134A.09, 134A.10

Foreign Judgment Filing less than or equal to $15,000

Total Fee: $80.00
Fee Calculation: Base Fee $65 + Law Library Fee $15
Authorization: Minn. Stat. § 548.30, 357.022, 134A.09, 134A.10

Judgment Search (fee for each name certified)

Total Fee: $5.00
Fee Calculation: Base Fee $55
Authorization: Minn. Stat. § 357.021 , subd. 2(8)

Notice of Objection Notice of Hearing
Total Fee: $1.00
Authorization: Minn. Stat. §§ 550.143 , subd. 5 (b), 551.05, 571.914
Order to Show Cause After Disclosure (per debtor)
Total Fee: $5.00
Authorization: Minn. Stat. § 357.021 , subd. 2(14)
Plea of Confession Filing greater than $15,000
Total Fee: $300.00
Fee Calculation: Base Fee $285 + Law Library Fee $15
Authorization: Minn. Stat. § 357.021 , subd. 2(1), 548.23, 134A.09, 134A.10
Plea of Confession Filing less than or equal to $15,000
Total Fee: $80.00
Fee Calculation: Base Fee $65 + Law Library Fee $15
Authorization: Minn. Stat. § 548.23, 357.022, 134A.09, 134A.10
Request for Disclosure (per debtor)
Total Fee: $5.00
Authorization: Minn. Stat. § 357.021 , subd. 2(14)
Satisfaction of Judgment or partial satisfaction
Total Fee: $5.00
Fee Calculation: Base Fee $5
Authorization: Minn. Stat. § 357.021 , subd. 2(7)
Transcript of Judgment docketed in District Court
Total Fee: $40.00
Fee Calculation: Base Fee $40
Authorization: Minn. Stat. § 357.021 , subd. 2(6)
Transcript of Judgment issued from District Court
Total Fee: $40.00
Fee Calculation: Base Fee $40
Authorization: Minn. Stat. § 357.021 , subd. 2(6)

Miscellaneous Fees
Faxes - $25 transmission fee for each 50 pages, or part thereof
Total Fee: $25.00
Authorization: Civil Court Rule 5.05, Juvenile Court Rules 31.01 , subd. 2, Juvenile Court Rules - Adoption 25.01 , subd. 3
Forms Packets - 1 to 10 pages
Total Fee: $0.00
Authorization: Court Operations Policy 506(b)
Forms Packets - 11 or more pages
Total Fee: $5.00
Authorization: Court Operations Policy 506(b)
Forms Packets - Harassment
Total Fee: $0.00
Authorization: Court Operations Policy 506(b)

NSF Checks (non-sufficient funds)
Total Fee: $30.00
Authorization: Minn. Stat. § 604.113, subd. 2
Request for Driver's License Suspension
Total Fee: $14.00
Fee Calculation: Base Fee $14
Authorization: Minn. Stat. § 357.021 , subd. 2(2)
Subpoena - For Each Name
Total Fee: $16.00
Fee Calculation: Base Fee $16
Authorization: Minn. Stat. § 357.021 , subd. 2(3)

Minnesota General Rules of Practice for the District Courts

with amendments effective January 1, 2020

TITLE VI. CONCILIATION COURT RULES

APPENDIX OF FORMS

Effective January 1, 2010, the following forms are deleted from these Rules and are maintained by State Court Administration on the judicial branch website at *http://www.mncourts.gov/*:

UCF-8 Statement of Claim and Summons

UCF-9 Judgment and Notice of Judgment

UCF-10 Defendant's Counterclaim and Notice of Hearing

UCF-22 Financial Disclosure Form

UCF-508.1 Affidavit of Service

RULE 501. APPLICABILITY OF RULES

Rules 501 through 525 apply to all conciliation court proceedings.

RULE 502. JURISDICTION

The conciliation court shall have jurisdiction and powers as prescribed by law.

RULE 503. COMPUTATION OF TIME

Rule 503.01. Generally

The following rules apply in computing any time period specified in these rules, in any local rule or court order, or in any statute that does not specify a method of computing time.

(a) Period Stated in Days or a Longer Unit of Time. When the period is stated in days or a longer unit of time:

(1) exclude the day of the event that triggers the period;

(2) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(3) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(b) Periods Shorter than 7 Days. Only if expressly so provided by any other rule or statute, a time period that is less than 7 days may exclude intermediate Saturdays, Sundays, and legal holidays. Otherwise, all time periods include Saturdays, Sundays, and legal holidays.

(c) Period Stated in Hours. When the period is stated in hours:

(1) begin counting immediately on the occurrence of the event that triggers the period;

(2) count every hour, including hours occurring during intermediate Saturdays, Sundays, and legal holidays; and

(3) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(d) Inaccessibility of the Court Administrator's Office. Unless the court orders otherwise, if the court administrator's office is inaccessible:

(1) on the last day for filing or service under Rule 503.01(a) and (b), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(2) during the last hour for filing under Rule 503.01(b) and (c), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(e) "Last Day" Defined Unless a different time is set by a statute, local rule, or court order, the last day ends:

(1) for electronic filing, at 11:59 p.m. local Minnesota time; and
(2) for filing by other means, when the Court Administrator's office is scheduled to close.

(f) "Next Day" Defined. The "next day" is determined by continuing to count forward 1 when the period is measured after an event and backward when measured before an event.

(Amended effective January 1, 2020.)

Rule 503.02. Definition of Legal Holiday

As used in these rules, "legal holiday" includes any holiday designated in Minn. Stat. § 645.44, subd. 5, as a holiday for the state or any state-wide branch of government and any day that the United States Mail does not operate.

(Amended effective January 1, 2020.)

Rule 503.03. Additional Time After Service by Mail or Service Late in Day

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other document upon the party, and the notice or document is served upon the party by United States Mail, 3 days shall be added to the prescribed period.

If service is made by any means other than United States Mail and accomplished after 5:00 p.m. local Minnesota time on the day of service, 1 additional day shall be added to the prescribed period.

(Amended effective January 1, 2020.)

1993 Committee Comment

State level judicial branch holidays are defined in Minnesota Statutes, section 645.44, subdivision 5 (1990), which includes: New Year's Day, January 1; Martin Luther King's Birthday, the third Monday in January; Washington's and Lincoln's Birthday, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Veteran's Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25. Section 645.44, subdivision 5, further provides that when New Year's Day, January 1; or Independence Day, July 4; or Veteran's Day, November 11; or Christmas Day, December 25; falls on Sunday, the following day shall be a holiday and that when New Year's Day, January 1; or Independence Day, July 4; or Veteran's Day, November 11; or Christmas Day, December 25; falls on Saturday, the preceding day shall be a holiday. Section 645.44, subdivision 5, also authorizes the judicial branch to designate certain other days as holidays. The 1992 Judicial Branch Personnel Plan designates the Friday after Thanksgiving as a holiday.

Conciliation courts are housed in county buildings, and the county is authorized to close county offices on certain days pursuant to Minnesota Statutes, section 373.052 (1990). Thus, if a county closes its offices under section 373.052 on a day that is not a state level judicial branch holiday, such as Christopher Columbus Day, the second Monday in October, the conciliation court in that county would nevertheless include that day as a holiday for the purpose of computing time under Rule 503. See Mittelstadt v. Breider, 286

Minn. 211, 175 N.W.2d 191 (1970) (applying section 373.052 to filing of notice of election contest with district court). If a county does not close its offices on a day that is a state level judicial branch holiday, such as the Friday after Thanksgiving, the conciliation court in that county must still include that day as a holiday for the purpose of computing time under Rule 503.

Advisory Committee Comment—2009 Amendment

Rule 503(c) is amended to clarify that for service or filing by mail, if U. S. Postal Service offices are closed on a particular day, that day is not deemed a "working week day" for the purpose of the rule, effectively permitting the mailing to be made on the next day that is a "working week day." This change conforms the rule to the time calculation provision of Minn. R. Civ. P. 6.01, which in turn was amended in 2008 to conform the rule to the Minnesota Supreme Court decision in Commandeur LLC v. Howard Hartry, Inc., 724 N.W.2d 508 (Minn. 2006) (holding that where the last day of a time period occurred on Columbus Day, service by mail permitted by the rules was timely if mailed on the following day on which mail service was available).

Advisory Committee Comment—2020 Amendments

This amended Rule 503 is drawn directly to Rule 6.01 as amended as part of the extensive revamping in 2019 of the timing rules for all civil matters. These amendments implement the adoption of a standard "day" for counting deadlines under the rules—counting all days regardless of the length of the period and standardizing the time periods, where practicable, to a 7-, 14-, 21- or 28-day schedule. The most important establishes "a day is a day"—all days during a period under the rules, regardless of length, are included, including weekends and legal holidays. This change mirrors a set of changes made in the Federal Rules of Civil Procedure, and is intended to create substantial similarity between "state days" and "federal days." The amended rule also adopts the same definition of "legal holidays" as set used in Minn. R. Civ. P. 6.

Rule 503.01(f) is an important provision that will affect many deadlines. It establishes an explicit rule for how days are counted when counting "backwards" from a deadline. The rule requires that, when counting backwards from an event, and the last day falls on a weekend or holiday, the counting continues to the next earlier date that is not a weekend or holiday. This rule is modeled on its federal counterpart and is intended to create greater uniformity in timing between all state and federal court matters.

RULE 504. JUDGE(S); ADMINISTRATOR; REPORTING

(a) Judges. The judge(s) and, where authorized by statute, full and part time judicial officers and referees of the district court shall serve as judge(s) of conciliation court for such periods and at such times as the judge(s) shall determine. A judge, judicial officer, or referee so serving shall be known as a conciliation judge.

(b) Administrator.

(1) The court administrator shall manage the conciliation court, and may delegate a deputy or deputies to assist in performing the administrator's duties. The court administrator shall keep records and accounts and perform such duties as may be

prescribed by the judge(s). The court administrator shall account for, and transmit to the appropriate official, all fees received as required by statute or rule.
(2) Under supervision of the conciliation court judges, the court administrator shall explain to litigants the procedures and functions of the conciliation court and shall on request assist litigants in filling out the forms provided under Rules 507(b) and 518(b) of these rules and on request shall, to the extent technically feasible, forward properly completed statement of claim and counterclaim forms to the administrator of the appropriate conciliation court together with the applicable fees, if any. The court administrator shall also advise litigants of the availability of subpoenas to obtain witnesses and documents. The performance of these duties shall not constitute the practice of law.
(3) Unless personal service is required under these rules, the court administrator may transmit notices by mail or by any means authorized by Rule 14 of the General Rules of Practice for the District Courts.

(c) **Reporting.** Conciliation court trials and proceedings shall not be reported.

(Amended effective July 1, 2015.)

1993 Committee Comment

Rule 504(b)(2) requires court administrators to advise litigants of the availability of subpoenas under Rule 512(a). The required advice may be provided orally or in writing (e.g. on the litigant's copy of a court form, an accompanying instruction sheet, or in a brochure).

RULE 505. COMMENCEMENT OF ACTION

An action is commenced against a defendant when a statement of claim as required by Rule 507 is filed with the court administrator of the conciliation court having jurisdiction and the applicable fees are paid to the administrator or the affidavit in lieu of filing fees prescribed in Rule 506 is filed with the administrator. Where authorized or required by Rule 14 of the General Rules of Practice for the District Courts, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

(Amended effective July 1, 2015.)

RULE 506. FEES; AFFIDAVIT IN LIEU OF FEES

The court administrator shall charge and collect a filing fee in the amount established by law and the law library fee, from every plaintiff and from every defendant when the first document for that party is filed in any conciliation court action. If the plaintiff or defendant who is a natural person signs and files with the court administrator an affidavit claiming an inability to pay the applicable fees, no fees are required. If the affiant prevails on a claim or counterclaim, the amount

of the fees which would have been payable by the affiant must be included in the order for judgment and paid to the administrator of conciliation court by the affiant out of any money recovered by the affiant on the judgment.

(Amended effective July 1, 2015.)

1993 Committee Comment

Statewide conciliation court filing fees are established by the legislature (see Minnesota Statutes, section 357.022). The law library fee is established by the local law library board, and these fees typically range from $0 to $10 Minnesota Statutes, sections 134A.09 and 134A.10 (1990 and 1991 Supplement). The fee waiver procedure under Rule 506 is essentially a clerical process, and the waiver applies to the conciliation court filing and law library fees only. The procedure for waiver of other fees e.g. service fees under Rule 508(d)(3), subpoena fees under Rule 512(a), and removal/appeal fees under Rule 521(b)(4) is set forth in Minnesota Statutes, section 563.01 (1990), which requires a formal application to, and decision by, the court. Only a party who is a natural person may utilize the fee waiver procedures under section 563.01 and Rule 506.

RULE 507. STATEMENT OF CLAIM AND COUNTERCLAIM; CONTENTS; VERIFICATION

(a) Claim; Verification; Contents. Each statement of claim and each counterclaim shall be made in the form approved by the court and shall contain a brief statement of the amount and nature of the claim, including relevant dates, and the name and address of the plaintiff and the defendant. The court administrator shall assist with the completion of the statement of claim and counterclaim upon request. Each statement of claim and each counterclaim shall also be signed under penalty of perjury by the party, or the lawyer representing the party, pursuant to Minn. Stat. § 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

(b) Uniform Statement of Claim or Counterclaim; Acceptance by Court. A statement of claim or counterclaim in the uniform form as published by the state court administrator shall be accepted by any conciliation court administrator when properly completed and filed with the applicable fees, if any.

(Amended effective July 1, 2015.)

1993 Committee Comment

Rule 507(b) requires that all courts accept a statement of claim or counterclaim properly completed on the form set forth in the appendix. Rule 507(a) authorizes a court to tailor the forms that it makes available to litigants for use in that court or to approve forms prepared by the litigants. This rule allows both the court and the litigants to benefit from increased efficiency through the use of various preprinted forms and word processor

or computer generated forms. Courts using tailored forms cannot, however, reject a statement of claim or counterclaim properly completed on the form set forth in the appendix.

RULE 508. SUMMONS; TRIAL DATE

(a) Trial Date. When an action has been properly commenced, the court administrator shall set a trial date and prepare a summons. Unless otherwise ordered by a judge, the trial date shall not be less than 14 days from the date of mailing or service of the summons.

(b) Contents of Summons. The summons shall state the amount and nature of the claim; require the defendant to appear at the trial in person or if a corporation, by officer or agent; shall specify that if the defendant does not appear judgment by default may be entered for the amount due the plaintiff, including fees, expenses and other items provided by statute or by agreement, and where applicable, for the return of property demanded by the plaintiff; and shall summarize the requirements for filing a counterclaim.

(c) Service on Plaintiff. The court administrator shall summon the plaintiff by first class mail or by electronic means of delivering notice authorized by Rule 14 of the General Rules of Practice for the District Courts.

(d) Service on Defendant.

(1) If the defendant's address as shown on the statement of claim is within the county, the administrator shall summon the defendant by first class mail, except that if the claim exceeds $2,500 the summons must be served by the plaintiff by certified mail, and proof of service must be filed with the administrator. If the summons is not properly served and proof of service filed within 60 days after issuance of the summons, the action shall be dismissed without prejudice.

(2) If the defendant's address as shown on the statement of claim is outside the county but within the state, and the law provides for service of the summons anywhere within the state, the administrator shall summon the defendant by first class mail, except that if the claim exceeds $2,500 the summons must be served by the plaintiff by certified mail, and proof of service must be filed with the administrator. If the summons is not properly served and proof of service filed within 60 days after issuance of the summons, the action shall be dismissed without prejudice.

(3) If the defendant's address as shown on the statement of claim is outside the state, the administrator shall forward the summons to the plaintiff who, within 60 days after issuance of the summons, shall cause it to be served on the defendant and file proof of service with the administrator. If the summons is not properly served and proof of service filed within 60 days after issuance of the summons, the action shall be dismissed without prejudice. A party who is unable to pay the fees for service of a summons may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

(4) Service by mail, whether first-class or certified, shall be effective upon mailing.

(e) Proof of Service. Service by first class mail or certified mail shall be proven by an affidavit of service in form substantially similar to that published by the state court administrator. Service may be alternatively proven, when made by the court administrator, by any appropriate notation in the court record of the date, time, method, and address used by the administrator to effect service.

(f) Service by Electronic Means; When Complete; Proof of Service. Unless these rules require personal service, any document may be served by electronic means under Rule 14 of the General Rules of Practice for the District Courts upon any party who has agreed to or is required to accept service by electronic means. Completion of service by electronic means under Rule 14 if governed by Rule 14. When a document has been served through the E-Filing System in accordance with Rule 14, the record of service on the E-Filing System shall constitute proof of service.

(Amended effective January 1, 2020.)

1993 Committee Comment

The territorial jurisdiction of conciliation court is limited to the county boundaries, and a summons cannot be issued outside the county except in certain situations, including: recovery of certain student loans by educational institutions located within the county; recovery of alleged dishonored checks issued within the county; certain claims arising out of rental property located within the county; actions against two or more defendants when one defendant resides in the county; actions against foreign corporations doing business in this state; and actions against nonresidents other than foreign corporations when the state has jurisdiction under Minnesota Statutes, section 543.19. Minnesota Statutes, section 491A.01, subdivisions 3, 6 to 10 (Supplement 1993). In situations in which the address of the defendant as shown on the statement of claim is outside the state, the summons is forwarded to the plaintiff who is then responsible for causing service of the summons on the defendant in the manner provided by law and filing proof of service with the court within 60 days of issuance of the summons. Various laws govern the service of a summons on nonresident defendants. See, e.g., Minnesota Statutes, sections 45.028 (foreign insurance entities doing business in this state); 303.13 (foreign corporations doing business in this state); 543.19 (other nonresident defendants subject to the jurisdiction of Minnesota's courts). The procedure under each of these laws is different, and it is the plaintiff's responsibility to ensure that the appropriate procedures are followed. For example, service on an unregistered foreign corporation pursuant to Minnesota Statutes, section 303.13 (1991 Supplement) can be accomplished by delivering three copies of the summons to the secretary of state and payment of a $35 fee. The secretary of state then mails a copy to the defendant corporation and keeps a record of the mailing. Rule 508(d) requires that the plaintiff file an affidavit of compliance which should be accompanied by the fee receipt from the secretary of state's office or a copy of the summons bearing the date and time of filing with the secretary of state. Service on an unregistered foreign insurance entity pursuant to Minnesota Statutes, section 45.028, subdivision 2 (1990), may be accomplished by: (1) delivering a single copy of the summons to the commissioner of commerce (as of August 1, 1992, there is no filing fee); and (2) the plaintiff mailing a copy of the summons and notice of service to the foreign insurance company by certified mail; and (3) filing of an affidavit of compliance with the court. Service is not effective until all steps are completed, including the filing of the

affidavit of compliance, which should be accompanied by receipts or other proof of mailing and filing with the commissioner of commerce. Finally, service on other nonresidents pursuant to Minnesota Statutes, section 543.19 (1990) requires that the summons be "personally served" on the nonresident and proof of service filed with the court. Such "personal service" may only be made by a sheriff or any other person not less than 18 years of age who is not a party to the action. Reichel v. Hefner, 472 N.W.2d 346 (Minnesota Appellate 1991) (applying Rule 4.02 of the rules of civil procedure for the district courts).

When service on a foreign corporation has been made under Minnesota Statutes, section 303.13 through the office of the secretary of state, the defendant corporation so served shall have 30 days from the date of mailing by the secretary of state in which to answer the complaint. Thus, the conciliation court trial date must be scheduled to allow the defendant the full 30 days to appear. Similarly, when certain foreign insurance entities are served under Minnesota Statutes, section 45.028, subdivision 2, the law also provides a 30-day response period see, e.g., Minnesota Statutes, section 64B.35, subdivision 2 (fraternal benefit societies) or prohibits default judgments until the expiration of 30 days from the filing of the affidavit of compliance. Minnesota Statutes, section 60A.21, subdivision 1(4) (unauthorized foreign insurer).

Rule 508(d) recognizes that in most situations involving resident defendants, first class mail is a sufficient method of notifying the defendant of the claim. If for some reason the summons cannot be delivered by mail, the last sentence of Rule 508(a) recognizes that personal service of the summons pursuant to the rules of civil procedure for the district court is always an effective means of providing notice of the claim. The party filing the claim is responsible for obtaining personal service, including any costs involved. As indicated above, "personal service" may only be made by a sheriff or any other person not less than 18 years of age who is not a party to the action.

The provisions requiring service by certified mail were added in order to make the rules consistent with statutes. See Minnesota Statutes, section 491A.01, subdivision 3(b) (Supplement 1993). If the claim exceeds $2,500, the plaintiff is responsible for causing service of the summons on the defendant by certified mail, and filing proof of service with the court within 60 days of issuance of the summons.

Advisory Committee Comment – 2006 Amendment

Rule 508(d)(4) is a new provision, intended to remove any confusion in the rule over when service by mail is deemed complete. This question is important in determining questions of timing. Making service effective upon mailing is consistent with the provisions of Minn. R. Civ. P. 5.02 and Minn. R. Civ. App. P. 125.03.

The rule has historically required proof of service, but has not specified how service is proven. Rule 508(e) specifies that an affidavit of service should be prepared in form substantially similar to new Form 508.1 to prove service by anyone other than the court administrator. Where the rule requires the administrator to effect service by mail or certified mail, it is not necessary to require an affidavit of the administrator to prove serve, and Rule 508(e) recognizes that a notation of the facts of service in the court's file will suffice to prove that service was effected.

Some courts follow the practice of using certified mail receipts as proof of service. In fact these receipts generally only prove receipt of the mailing, not the mailing itself. Although proof of receipt may be important if a question arises as to the effectiveness of service, it is not an adequate substitute for proof of the facts of service, including the date of mailing.

Advisory Committee Comment—2009 Amendment

Rules 507, 508, and 518 are amended to remove Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 from the rules and to correct the reference to the forms in the rule. This amendment will allow for the maintenance and publication of the forms by the state court administrator. The forms, together with other court forms, can be found at http://www.mncourts.gov/. Forms UCF-8, UCF-9, UCF-10, UCF-22, and 508.1 should be deleted from the rules and maintained in the future on the court's website.

RULE 509. COUNTERCLAIM

(a) Counterclaims Allowed. The defendant may assert a counterclaim within jurisdiction of conciliation court which the defendant has against the plaintiff, whether or not arising out of the transaction or occurrence which is the subject matter of plaintiff's claim.

(b) Assertion of Counterclaim. To assert a counterclaim the defendant shall perform all the following not less than 7 days before the date set for trial of plaintiff's claim:

(1) file with the court administrator a counterclaim required by Rule 507;

(2) pay to the court administrator the applicable fees or file with the administrator the affidavit in lieu of fees prescribed in Rule 506.

Where authorized or required by Rule 14 of the General Rules of Practice for the District Courts, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

(c) Administrator's Duties. The court administrator shall assist with the preparation of the counterclaim on request. When the counterclaim has been properly asserted, the court administrator shall note the filing of the counterclaim on the original claim, promptly transmit notice of the counterclaim to plaintiff and set the counterclaim for trial on the same date as the original claim.

(d) Late Filing. No counterclaim shall be heard if filed less than 7 days before the trial date of plaintiff's claim except by permission of the judge, who has discretion to allow a filing within the 7-day period. Should a continuance be requested by and granted to plaintiff because of the late filing, the judge may require payment of costs by defendant, absolute or conditional, not to exceed $50.

(Amended effective January 1, 2020.)

RULE 510. COUNTERCLAIM IN EXCESS OF COURT'S JURISDICTION

(a) The court administrator shall strike plaintiff's action from the calendar if the defendant not less than 7 days of the date set for trial of plaintiff's claim, files with the court administrator an affidavit stating that:

(1) the defendant has a counterclaim against plaintiff arising out of the same transaction or occurrence as plaintiff's claim, the amount of which is beyond monetary jurisdiction of the conciliation court, and

(2) the defendant has commenced or will commence within 28 days an action against plaintiff in a court of competent jurisdiction based on such claim.

(b) The plaintiff's action shall be subject to reinstatement on the trial calendar at any time after 28 days and up to 3 years, upon the filing by plaintiff of an affidavit showing that the plaintiff has not been served with a summons by defendant. If the action is reinstated, the court administrator shall set the case for trial and transmit notice of the trial date to the parties.

(c) Absolute or conditional costs, not to exceed $50, may be imposed against the defendant if the defendant fails to commence an action as provided in paragraph (a)(2) of this rule, and the court determines that the defendant caused the plaintiff's action to be stricken from the calendar in bad faith or solely to delay the proceedings or to harass.

(Amended effective January 1, 2020.)

RULE 511. NOTICE OF SETTLEMENT

If the parties agree on a settlement prior to trial, each party who has made a claim or counterclaim shall promptly advise the court in writing that the claim or counterclaim has been settled and that it may be dismissed.

(Added effective July 1, 1993.)

RULE 512. TRIAL

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

(b) **Testimony and Exhibits.** Subject to part (d) of this rule, the judge shall hear testimony of the parties, their witnesses, and shall consider exhibits offered by the parties. The

party offering an exhibit shall mark the party's name on the exhibit in a manner that will not obscure the exhibit. All exhibits will be returned to the parties at the conclusion of the trial unless otherwise ordered by the judge.

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

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

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

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

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

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

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

(2) otherwise dispose of the matter.

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

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

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

(Amended effective January 1, 2007.)

1993 Committee Comment

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

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

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

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

Rule 512(e) does not preclude a court from providing the parties with a written explanation for the court's decision. Explanations, regardless of their brevity, are strongly encouraged. Explanations provide litigants with some degree of assurance that their case received thoughtful consideration, and may help avoid unnecessary appeals. Explanations may be inserted on Form UCF-9, appended to the rules, in either the Order for Judgment section on the front of the form or in the Memorandum section on the reverse side of the court's copy of the form.

Advisory Committee Comments—2007 Amendment

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

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

RULE 513. ABSOLUTE OR CONDITIONAL COSTS; FILING OF ORDERS

In any case in which payment of absolute or conditional costs has been ordered as a condition of an order under any provision of these rules, the amount so ordered shall be paid to the court administrator before the order becomes effective or is filed. Conditional costs shall be held by the court administrator to be paid in accordance with the final order entered in the case; absolute costs shall be promptly transmitted by the court administrator to the other party as that party's absolute property.

RULE 514. NOTICE OF ORDER FOR JUDGMENT

The court administrator shall promptly transmit to each party a notice of the order for judgment entered by the judge or judicial officer. The notice shall state the last day for obtaining an order to vacate (where there has been a default) or for removing the cause to the civil division of district court under these rules. The notice shall also contain a statement that if the cause is removed to district court, the court will allow the prevailing party to recover from the aggrieved party $50 as costs if the prevailing party on appeal is not the aggrieved party in the original action as provided in Rule 524.

(Amended effective July 1, 2015.)

1993 Committee Comment

Rules 515, 520(a), and 521(b) of these rules establish a uniform 20-day time period for obtaining an order to vacate or for removing the case to district court. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minnesota Appellate 1992) (construing Rule 6.05 of the Minnesota Rules of Civil Procedure). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Rule 6.05 of the Minnesota Rules of Civil Procedure.

RULE 515. ENTRY OF JUDGMENT

The court administrator shall promptly enter judgment as ordered by the judge. The judgment shall be dated as of the date notice is sent to the parties. The judgment so entered becomes finally effective 21 days after the transmission of the notice, unless:

(a) payment has been made in full, or

(b) removal to district court has been perfected, or

(c) an order vacating the prior order for judgment has been filed, or

(d) ordered by a judge.

As authorized by law, any judgment ordered may provide for satisfaction by payment in installments in amounts and at times, as the judge determines. Should any installment not be paid when due, the entire unpaid balance of the judgment ordered, becomes immediately due and payable.

(Amended effective January 1, 2020.)

1993 Committee Comment

Rule 515 provides that a judgment becomes finally effective 20 days after notice of judgment is mailed to the parties, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minnesota Appellate 1992) (construing Rule 6.05 of the Minnesota Rules of Civil Procedure). Computing the effective date of the judgment can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Rule 6.05 of the Minnesota Rules of Civil Procedure. The purpose of the 20-day time period specified in Rule 515 is to permit a party to obtain an order to vacate under Rule 520(a) or effect removal of the case to district court under Rule 521(b).

The legislature has determined that any judgment ordered may provide for satisfaction by payment in installments in amounts and at such times, not exceeding one year for the last installment, as the judge determines to be just and reasonable. Minnesota Statutes, section 491A.02, subdivision 5 (Supplement 1993). Rule 512(e) recognizes that

the one year limit on installment payments may be waived by the parties as part of a settlement.

RULE 516. COSTS AND DISBURSEMENTS

The order for judgment shall include the fees paid or payable by the prevailing party pursuant to Rules 506 and 508(d)(3) of these rules and, in the discretion of the court, may include all or part of disbursements incurred by the prevailing party which would be taxable in district court and any conditional costs previously ordered to be paid by either party.

RULE 517. PAYMENT OF JUDGMENT

A nonprevailing party must make arrangements to pay the judgment directly to the prevailing party. In the event good faith efforts to pay the judgment are not successful or the prevailing party refuses to accept tendered payment, the nonprevailing party may bring a motion to allow payment into court. Upon order of the court, the nonprevailing party may then pay all or any part of the judgment to the court administrator for benefit of the prevailing party.

The court administrator shall enter on the court's records any payment made to the administrator or to the prevailing party directly when satisfied that the direct payments have been made.

(Amended effective January 1, 2010.)

Advisory Committee Comment—2009 Amendment

Rule 517 is amended to modify the procedure for payment of a conciliation court judgment directly to the court administrator. As amended, the rule requires that payment be made directly by the nonprevailing party to the prevailing party, and permits payment into court only if reasonable attempts to make that payment are not successful or the prevailing party will not accept payment, in which case the nonprevailing party must bring a motion to allow payment into court.

RULE 518. DOCKETING OF JUDGMENT IN DISTRICT COURT; ENFORCEMENT

(a) Docketing. Except as otherwise provided in Rule 519 with respect to installment judgments, when a judgment has become finally effective as defined in Rule 515 of these rules the judgment creditor may obtain a transcript of the judgment from the court administrator on payment of the applicable statutory fee and file it in district court. Once filed in district court the judgment becomes and is enforceable as a judgment of district court, and the judgment will be docketed by the court administrator upon presentation of an affidavit of identification. No writ of execution or garnishment summons shall be issued out of conciliation court.

(b) Enforcement. Unless the parties have otherwise agreed, if a conciliation court judgment has been docketed in district court and the judgment is not satisfied, the district court

shall upon request of the judgment creditor order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the debtor's assets, liabilities, and personal earnings. The information shall be provided on a form substantially similar to that published by the state court administrator, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this rule may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

(Amended effective January 1, 2010.)

1993 Committee Comment

The party in whose favor the judgment was entered (the "judgment creditor") is responsible for enforcing the judgment if the other party ("the judgment debtor") does not voluntarily comply with the judgment. Obtaining a transcript of the judgment and filing it in district court under Rule 518(a) is the first step in enforcing a judgment. A judgment requiring the payment of money (as opposed to a judgment requiring the return of property) will also be docketed by the court administrator upon transcription if the statutorily required affidavit of identification (Minnesota Statutes, section 548.09, subdivision 2 (1990)) is presented. Docketing a money judgment creates a lien against all real property of the debtor in the county in which it is docketed, except for registered land, which requires an additional filing (pursuant to Minnesota Statutes, sections 508.63 and 508A.63) to create a lien. Docketing must be accomplished before the judgment creditor is permitted to use the disclosure provisions of Rule 518(b), which may assist in locating assets of the judgment debtor. Additional information on enforcement of judgments against nonexempt assets of the debtor is set forth in brochures and forms available from local court administration and legal aid offices.

Specific fee amounts have been deleted from these rules as the fees are subject to modification by the legislature. Minnesota Statutes, section 357.021 (1990) ($7.50 transcription fee). Whether a separate fee in addition to the transcription fee is required for filing and docketing is also subject to legislative modification. Under current law, no separate fee may be charged for filing and docketing a conciliation court judgment in the district court of the county in which the judgment was rendered.

Advisory Committee Comment—2009 Amendment

Rule 518 is amended to remove the automatic thirty-day stay following docketing of a judgment in district court and the commencement of discovery regarding the judgment. The thirty-day stay does not serve a useful purpose in court administration, and simply results in a thirty-day delay in resolution of these matters. Accordingly, the committee recommends that it be removed from Rule 518. This change also makes the rule consistent with statute. See Minn. Stat. § 491A.02, subd. 9.

RULE 519. DOCKETING OF JUDGMENT PAYABLE IN INSTALLMENTS

No transcript of a judgment of conciliation court payable in installments shall be issued and filed until 21 days after default in payment of an installment due.

(Amended effective January 1, 2020.)

RULE 520. VACATION OF JUDGMENT ORDER AND JUDGMENT

(a) Vacation of Order for Judgment Within 21 Days. When a default judgment or judgment of dismissal on the merits has been ordered for failure to appear, the judge within 21 days after notice was transmitted may vacate said judgment order ex parte and grant a new trial on a proper showing by the defaulting party of lack of notice, mistake, inadvertence or excusable neglect as the cause of that party's failure to appear. Absolute or conditional costs not to exceed $50 to the other party may be ordered as a prerequisite to that relief.

(b) Vacation of Judgment After 21 Days. A default judgment may be vacated by the judge upon a proper showing by the defendant that: (1) the defendant did not receive a summons before the trial within sufficient time to permit a defense and did not receive notice of the order for default judgment within sufficient time to permit application for relief within 21 days after notice, or (2) upon other good cause shown. Application for relief pursuant to this Rule 520(b) shall be made within a reasonable time after the applicant learns of the existence of the judgment and shall be made by motion in accordance with the procedure governing motions in the district court, except that the motion is filed with the court administrator of conciliation court. The order vacating the judgment shall grant a new trial on the merits and may be conditioned upon payment of absolute or conditional costs not to exceed $50.

(c) Notice. The court administrator shall promptly transmit a notice of a new trial date to the parties.

(Amended effective January 1, 2020.)

1993 Committee Comment

Rule 520(a) establishes a 20-day time period for obtaining an order to vacate a default judgment order or order for judgment of dismissal. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minnesota Appellate 1992) (construing Rule 6.05 of the Minnesota Rules of Civil Procedure). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Rule 6.05 of the Minnesota Rules of Civil Procedure.

Rule 520(a) authorizes an informal, ex parte proceeding (involving appearance of one party only), which typically includes the presentation of an affidavit establishing lack of notice, mistake, inadvertence or excusable neglect as the cause of that party's failure to

appear. In contrast, Rule 520(b) requires compliance with the formal requirements for making a motion in the district court. See Minnesota Rules of Civil Procedure 4.02, 5.02, 6.05; Minnesota General Rules of Practice for the District Courts 115.01, 115.02, 115.04 to 115.10. Forms and instructions are available from the conciliation court.

RULE 521. REMOVAL (APPEAL) TO DISTRICT COURT

(a) Trial de novo. Any person aggrieved by an order for judgment entered in conciliation court after contested trial may remove the cause to district court for trial de novo (new trial). An "aggrieved person" may be either the judgment debtor or creditor.

(b) Removal Procedure. To effect removal, the aggrieved party must perform all the following within 21 days after the date the court administrator transmitted to that party notice of the judgment order:

(1) Serve a demand for removal of the cause to district court by first class mail upon every opposing counsel or self-represented litigant. Service may also be by personal service in accordance with the provisions for personal service of a summons in district court. Service shall be by electronic means under Rule 14 if both the counsel or party serving the demand and the counsel or party to be served have agreed to or are required to accept electronic service under Rule 14. The demand for removal shall state whether trial demanded is to be by court or jury, and shall indicate the name, address, and telephone number of the aggrieved party's lawyer, if any. If the aggrieved party is a corporation, the demand for removal must be signed by the party's attorney.

(2) File with the court administrator the original demand for removal with proof of service. The aggrieved party may file with the court administrator within the 21-day period the original and copy of the demand together with an affidavit by the party or the party's lawyer showing that after due and diligent search the opposing party or opposing party's lawyer cannot be located. This affidavit shall serve in lieu of making service and filing proof of service. When an affidavit is filed, the court administrator shall mail the copy of the demand to the opposing party at the party's last known residence address.

(3) File with the court administrator an affidavit by the aggrieved party or that party's lawyer stating that the removal is made in good faith and not for purposes of delay.

(4) Pay to the court administrator as the fee for removal the amount prescribed by law for filing a civil action in district court, and if a jury trial is demanded under Rule 521(b)(1) of these rules, pay to the court administrator the amount prescribed by law for requesting a jury trial in a civil action in district court. A party who is unable to pay the fees may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

(c) Demand for Jury Trial. Where no jury trial is demanded on removal under Rule 521(b) by the aggrieved party, if the opposing party desires a jury trial that party shall perform all the following within 21 days after the demand for removal was served on the party or lawyer:

(1) Serve a jury trial demand by first class mail upon every opposing counsel or self-represented litigant. Service may also be by personal service in accordance with the provisions for personal service of a summons in district court. Service shall be by electronic means under Rule 14 if both the counsel or party serving the demand and the counsel or party to be served have agreed to or are required to accept electronic service under Rule 14.
(2) File the jury trial demand and proof of service with the court administrator.
(3) Pay to the court administrator the amount prescribed by law for requesting a jury trial in a civil action in district court and, if the demand is the first document filed by the party in the district court proceeding, pay to the administrator the amount prescribed by law for filing a civil action in district court. A party who is unable to pay the fees may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

(d) **Removal Perfected; Vacating Judgment; Transmitting File.** When all removal documents have been filed properly and all requisite fees paid as provided under Rule 521(b), the removal is perfected, and the court shall issue an order vacating the order for judgment in conciliation court as to the parties to the removal, and the pertinent portions of the conciliation court file of the cause shall be filed in district court.

(e) **Limited Removal.**
(1) When a motion for vacation of an order for judgment, or judgment under Rule 520(a) or (b) of these rules, is denied, the aggrieved party may demand limited removal to the district court for hearing de novo (new hearing) on the motion. Procedure for service and filing of the demand for limited removal and notice of hearing de novo, proof of service of the notice, and procedure in case of inability of the aggrieved party to make service on the opposing party or the opposing party's lawyer shall be in the same manner prescribed in part (b) of this rule, except that the deadline for effecting limited removal shall be 21 days after the date that the court administrator transmits notice of the denial of the motion for vacation of the order for judgment or judgment. The fee payable by the aggrieved party to the court administrator for limited removal shall be the same as the filing fee prescribed by law for filing of a civil action in district court. The court administrator shall then place the matter on the special term calendar for the date specified in the notice. At the hearing in district court, either party may be represented by a lawyer.
(2) A judge other than the conciliation court judge who denied the motion, shall hear the motion de novo (anew) and may (A) deny the motion or (B) grant the motion. In determining the motion the judge shall consider the entire file plus any affidavits submitted by either party or their lawyers.
(3) The court administrator shall transmit a copy of the order made in district court after de novo hearing to both parties and the venue shall be transferred back to conciliation court.

(Amended effective January 1, 2020.)

Cross Reference: Minn. R. Civ. P. 4.02, 4.06, 5.02, 6.01, 6.02, and 6.05.

1993 Committee Comment

Rule 521(b) establishes a 20-day time period for removing the case to district court. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minnesota Appellate 1992) (construing Rule 6.05 of the Minnesota Rules of Civil Procedure). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Rule 6.05 of the Minnesota Rules of Civil Procedure.

In district court, personal service may only be made by a sheriff or any other person not less than 18 years of age who is not a party to the action. Reichel v. Hefner, 472 N.W.2d 346 (Minnesota Appellate 1991). This applies to personal service under this Rule 521. Service may not be made on Sunday, a legal holiday, or election day. Minnesota Statutes, sections 624.04; 645.44, subdivision 5 (1990); Minnesota Constitution article VII, section 4.

Advisory Committee Comment-2000 Amendment

Rule 521(e)(1), as amended in 1997, allows limited removal to district court from a denial of a motion to vacate the order for judgment or judgment made pursuant to Rule 520(a) or (b). To obtain limited removal under Rule 521(e)(1), a party must follow the same procedural steps for obtaining removal under Rule 521(b), except that the event that triggers the twenty-day time period for effecting removal is the date that the court administrator mails the notice of denial of the motion to vacate the order for judgment or judgment. The law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992).

Under Rule 521(b)(1) as amended in 2000, if the party seeking to remove (appeal) the case to district court is a corporation, the demand for removal must be signed by an attorney authorized to practice law in the district court. This requirement simply restates a requirement recognized by court decision. See World Championship Fighting, Inc. v. Janos, 609 N.W.2d 263 (Minn. App. 2000), rev. denied (Minn. July 25, 2000). A corporation must be represented by a licensed attorney in district court regardless of the fact that the action originated in conciliation court. See Nicollet Restoration, Inc. v. Turnham, 486 N.W.2d 753 (Minn. 1992).

Advisory Committee Comment—2004 Amendments

Rule 521(d) is amended in 2004 to clarify its application in a situation where one of several co-parties (either co-plaintiffs or co-defendants) removes (appeals) a conciliation court decision while another co-party does not take that action. The committee believes that the conciliation court judgment should become final against any party who does not remove the case and in favor of any party against whom removal is not sought.

Rule 521 establishes an approved and effective means of service by mail to accomplish removal of a conciliation court case to district court for trial de novo. By decision in 2004, the Minnesota Supreme Court held that a party may also rely on the different means of service by mail contained in Minn. R. Civ. P. 4.05. See Roehrdanz v. Brill, 682 N.W.2d 626 (Minn. 2004). Because service under that rule may require a signed receipt from the party being served, such service may not be effective.

RULE 522. PLEADINGS IN DISTRICT COURT

The pleadings in conciliation court shall constitute the pleadings in district court. Any party may amend its statement of claim or counterclaim if, within 30 days after removal is perfected, the party seeking the amendment serves on the opposing party and files with the court a formal complaint conforming to the Minnesota Rules of Civil Procedure. If the opposing party fails to serve and file an answer within the time permitted by the Minnesota Rules of Civil Procedure, the allegations of the formal complaint are deemed denied. Amendment of the pleadings at any other time shall be allowed in accordance with the rules of civil procedure. On the motion of any party or on its own initiative, the court may order either or both parties to prepare, serve and file formal pleadings.

Advisory Committee Comment—2002 Amendment

Rule 522 establishes a streamlined procedure for amendment of pleadings as a matter of right during the first 30 days after an action is removed to district court. The 2002 amendment adds a sentence before the last sentence to make it clear that the parties may move for leave to amend at other times, and the court can allow amendment on its own initiative. In these situations, the standards for amendment and supplementation of pleadings contained in Rule 15 of the Minnesota Rules of Civil Procedure and the case law interpreting that rule should guide the court in deciding whether to allow amendment.

RULE 523. PROCEDURE IN DISTRICT COURT

Proceedings in the district court shall, except as otherwise expressly provided in these rules, be in accordance with the Minnesota Rules of Civil Procedure and the General Rules of Practice for the District Courts. The judge who presided in conciliation court shall not preside in district court.

1993 Committee Comment

The Minnesota Supreme Court has determined that a corporation must be represented by a licensed attorney when appearing in district court regardless of the fact that the action originated in conciliation court. Nicollet Restoration, Inc. v. Turnham, 486 N.W.2d 753 (Minnesota 1992).

RULE 524. MANDATORY COSTS IN DISTRICT COURT

(a) For the purposes of this rule, "removing party" means the first party who serves or files a demand for removal. "Opposing party" means any party as to whom the removing party seeks a reversal in whole or in part.

(b) If the removing party prevails in district court, the removing party may recover costs from the opposing party as though the action were commenced in district court. If the removing party does not prevail, the court shall award the opposing party an additional $50 as costs. If the removing party is eligible to proceed under Minnesota Statutes, section 563.01, the $50 costs may be waived if the court determines that a hardship exists and that the case was removed in good faith.

(c) For purposes of this rule, the removing party prevails in district court if:
(1) the removing party recovers at least $500 or 50 percent of the amount or value of property that the removing party requested on removal, whichever is less, when the removing party was denied any recovery in conciliation court;
(2) the opposing party does not recover any amount or any property from the removing party in district court when the opposing party recovered some amount or some property in conciliation court;
(3) the removing party recovers an amount or value of property in district court that exceeds the amount or value of property that the removing party recovered in conciliation court by at least $500 or 50 percent, whichever is less; or
(4) the amount or value of property that the opposing party recovers from the removing party in district court is reduced from the amount or value of property that the opposing party recovered in conciliation court by at least $500 or 50 percent, whichever is less.

(d) Costs or disbursements in conciliation or district court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this rule.

1993 Committee Comment

Rule 524 simply repeats, for the benefit of litigants, the requirements set forth by the legislature. Minnesota Statutes, section 491A.02, subdivision 7 (Supplement 1993). Statutory costs normally available in district court pursuant to Minnesota Statutes, section 549.02 do not apply to conciliation court matters that have been removed to district court. Minnesota Statutes, section 549.02 (1992).

RULE 525. APPEAL FROM DISTRICT COURT

The judgment of the district court on removal from conciliation court in any cause may be appealed to the Court of Appeals as in other civil cases.

1993 Committee Comment

An appeal may not be taken directly from conciliation court to the court of appeals. McConnell v. Beseres, 358 N.W.2d 113 (1984). Removal under Rule 521(b) or limited removal under Rule 521(c), and a ruling on the removal by the district court, are jurisdictional prerequisites for an appeal to the court of appeals from an action initiated in conciliation court.

APPENDIX OF FORMS

Effective January 1, 2010, the following forms are deleted from these Rules and are maintained by State Court Administration on the judicial branch website at *http://www.mncourts.gov/*:

UCF-8 Statement of Claim and Summons
UCF-9 Judgment and Notice of Judgment
UCF-10 Defendant's Counterclaim and Notice of Hearing
UCF-22 Financial Disclosure Form
UCF-508.1 Affidavit of Service

491A.02 PROCEDURE.

Subdivision 1. **Procedure; rules; forms.** The determination of claims in conciliation court must be without jury trial and by a simple and informal procedure. Conciliation court proceedings must not be reported. By July 1, 1993, the supreme court shall promulgate rules governing pleading, practice, and procedure for conciliation courts, and shall promulgate uniform claim and counterclaim forms. The claim and summons must include a conspicuous notice in at least 10-point bold type regarding the consequences of a failure to appear at a conciliation court hearing. Each conciliation court shall accept a uniform claim or counterclaim that has been properly completed and forwarded to the court together with the entire filing fee, if any.

Subd. 2. **Assistance to litigants.** Under the supervision of the conciliation court judges, the court administrator shall explain to litigants the procedure and functions of the conciliation court and shall on request assist them in filling out all forms and pleading necessary for the presentation of their claims or counterclaims to the court. The uniform claim and counterclaim forms must be accepted by any court administrator and shall on request be forwarded together with the entire filing fee, if any, to the court administrator of the appropriate conciliation court. The court administrator shall on request assist judgment creditors and debtors in the preparation of the forms necessary to obtain satisfaction of a final judgment. The performance of duties prescribed in this subdivision do not constitute the practice of law for purposes of section 481.02, subdivision 8.

Subd. 3. **Fees.** The court administrator shall charge and collect the fee established pursuant to section 357.022, together with applicable law library fees established pursuant to law, from a plaintiff and from a defendant when the first paper for that party is filed in any conciliation court action. The rules promulgated by the supreme court shall provide for commencement of an action without payment of fees when a litigant who is a natural person claims an inability to pay the fees, provided that if the litigant prevails on a claim or counterclaim, the fees must be paid to the administrator out of any money recovered by the litigant.

Subd. 4. **Representation.** (a) A corporation, partnership, limited liability company, sole proprietorship, or association may be represented in conciliation court by an officer, manager, or partner or an agent in the case of a condominium, cooperative, or townhouse association, or may appoint a natural person who is an employee or commercial property manager to appear on its behalf or settle a claim in conciliation court. The state or a political subdivision of the state may be represented in conciliation court by an employee of the pertinent governmental unit without a written authorization. The state also may be represented in conciliation court by an employee of the Division of Risk Management of the Department of Administration without a written authorization. Representation under this subdivision does not constitute the practice of law for purposes of section 481.02, subdivision 8. In the case of an officer, employee, commercial property manager, or agent of a condominium, cooperative, or townhouse association, an authorized power of attorney, corporate authorization resolution, corporate bylaw, or other evidence of authority acceptable to the court must be filed with the claim or presented at the hearing. This subdivision also applies to appearances in district court by a corporation or limited liability company with five or fewer shareholders or members and to any condominium, cooperative, or townhouse association, if the action was removed from conciliation court.

(b) "Commercial property manager" means a corporation, partnership, or limited liability company or its employees who are hired by the owner of commercial real estate to perform a broad range of administrative duties at the property including tenant relations matters, leasing, repairs, maintenance, the negotiation and resolution of tenant disputes, and related matters. In order to appear in conciliation court, a property manager's employees must possess a real estate license under section 82.87 and be authorized by the owner of the property to settle all disputes with tenants and others within the jurisdictional limits of conciliation court.

(c) A commercial property manager who is appointed to settle a claim in conciliation court may not charge or collect a separate fee for services rendered under paragraph (a).

Subd. 5. **Installment payments.** A judgment ordered may provide for satisfaction by payments in installments in amounts and at such times, not exceeding one year for the last installment, as the judge determines to be just and reasonable. If any installment is not paid when due, the entire balance of the judgment order becomes immediately due and payable.

Subd. 6. **Appeal by removal to district court; trial de novo; notice of costs.** The rules promulgated by the supreme court must provide for a right of appeal from the decision of the conciliation court by removal to the district court for a trial de novo. The notice of order for judgment must contain a statement that if the removing party does not prevail in district court as provided in subdivision 7, the opposing party may be awarded an additional $50 as costs.

Subd. 7. **Costs in district court.** (a) For the purposes of this subdivision, "removing party" means the first party who serves or files a demand for removal. "Opposing party" means any party as to whom the removing party seeks a reversal in whole or in part.

(b) If the removing party prevails in district court, the removing party may recover costs from the opposing party as though the action were commenced in district court. If the removing party does not prevail, the court shall order an additional $50 to be paid to the opposing party as costs. If the removing party is eligible to proceed under section 563.01, the additional $50 costs may be waived if the court, in its discretion, determines that a hardship exists and that the case was removed from conciliation court in good faith.

(c) For purposes of this section, the removing party prevails in district court if:

(1) the removing party recovers at least $500 or 50 percent of the amount of value of property that the removing party requested on removal, whichever is less, when the removing party was denied any recovery in conciliation court;

(2) the opposing party does not recover any amount or any property from the removing party in district court when the opposing party recovered some amount or some property in conciliation court;

(3) the removing party recovers an amount or value of property in district court that exceeds the amount or value of property that the removing party recovered in conciliation court by at least $500 or 50 percent, whichever is less; or

(4) the amount or value of property that the opposing party recovers from the removing party in district court is reduced from the amount or value of property that the opposing party recovered in conciliation court by at least $500 or 50 percent, whichever is less.

(d) Costs or disbursements in conciliation or district court must not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this section.

Subd. 8. **Appeal from district court.** Decisions of the district court on removal from a conciliation court determination on the merits may be appealed to the court of appeals as in other civil actions.

Subd. 9. **Judgment debtor disclosure.** Notwithstanding any contrary provision in rule 518 of the Conciliation Court Rules, unless the parties have otherwise agreed, if a conciliation court judgment or a judgment of district court on removal from conciliation court has been docketed in district court, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment

originated shall, upon request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earning. The information must be provided on a form prescribed by the supreme court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully, subject to section 588.04, paragraph (b).

History: *1993 c 321 s 3; 1994 c 502 s 3; 1995 c 254 art 5 s 15; 2004 c 226 s 1; 2007 c 148 art 2 s 69; 2009 c 83 art 2 s 32; 2013 c 104 s 1*

INSTRUCTIONS

Conciliation Court
Plaintiff's Statement of Claim

Forms you may need for your Conciliation Court case:

- *Plaintiff's Statement of Claim* (CCT102);
- *Conciliation Court Affidavit of Service* (CCT103);
- *Additional Litigants Form* (CCT702);
- *Power of Attorney for Conciliation Court* (CCT701) – only if you are representing a business;
- *Affidavit of Inability to Pay Conciliation Court Fees* (CCT104) – not for businesses

What You Need to Do

1. Complete the court forms, following all of the steps in these instructions.
2. File your forms (electronically or at the courthouse), and pay the Conciliation Court filing fee (or, for individuals, file the *Affidavit of Inability to Pay Conciliation Court Fees* (CCT104) if you cannot afford to pay the fee).
3. If your claim is over $2500, serve Defendant with a copy of your *Plaintiff's Statement of Claim* form and the *Summons* that you will receive from court administration.
4. Appear at the hearing. Each "step" here is described in more detail below.

Guide & File

The court offers an online interview based tool called Guide & File that can help you fill out the forms and possibly file them electronically. For more information, see https://mncourts.gov/Help-Topics/Guide-and-File.aspx.

Got a question about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the MN Courts Self-Help Center at 651-435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

Helpful materials may be found at your public county law library. For a directory, see http://mn.gov/law-library/research-links/county-law-libraries.jsp . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

General Information About Conciliation Court

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions, but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

What is conciliation court?
Minn. § 491A.01 created conciliation court - also called small claims court. This court allows people to bring their legal claims to court without expensive costs or complicated legal procedures.

Do you have a claim to file in conciliation court?
You can file a claim in conciliation court for an amount up to $15,000.00, or $4,000.00 if the claim involves a consumer credit transaction. This is the limit set by law. You cannot file a claim involving title to real estate, libel, slander, class actions or medical malpractice in conciliation court.

Conciliation court will not accept a claim that goes over the dollar limits. If you reduce your claim to the limit of conciliation court, you cannot claim more later. Getting a judgment in conciliation court may prevent you from bringing any other claims based on the same event.

Getting a judgment in conciliation court does not guarantee payment. As you try to collect the judgment, you will have out of pocket expenses for filing fees, transcription costs, and other costs of collecting a judgment.

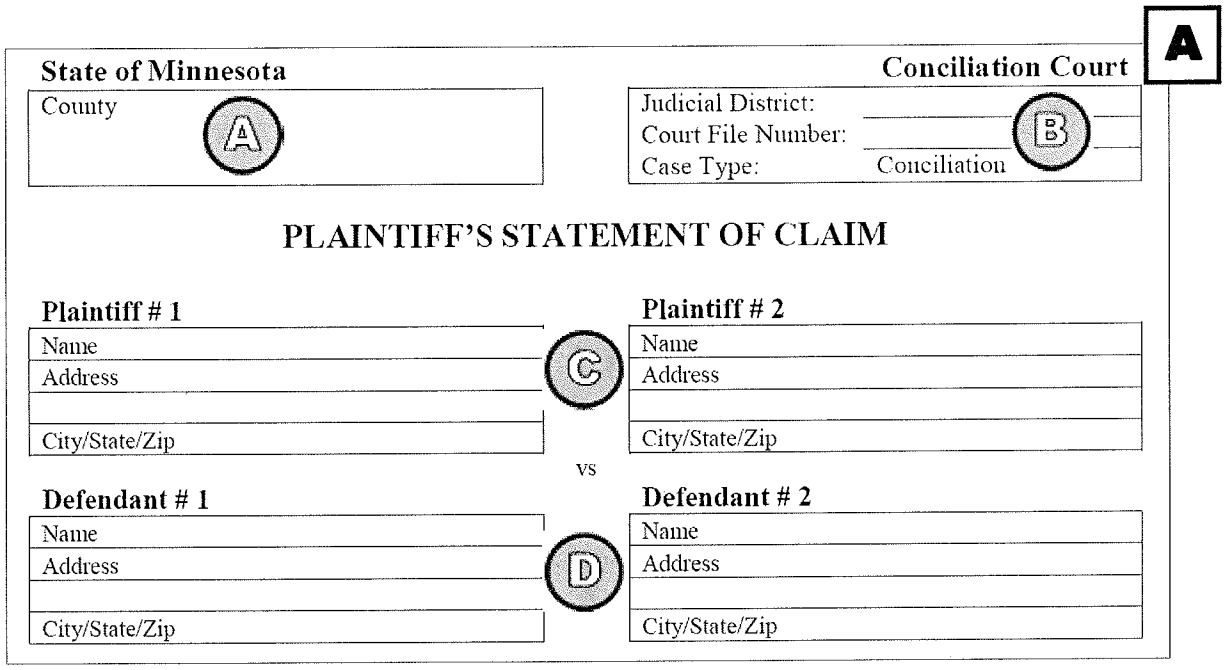
Note: Only a business or government entity may be represented in conciliation court by a nonlawyer. A power of attorney does not authorize a nonlawyer to file a claim, appear, or in any other way "represent" a natural person in conciliation court.

Do you have all the information you need to fill out the forms?
The *Plaintiff's Statement of Claim* form (CCT102) asks for the following information:

- For each plaintiff: name, address, phone number, e-mail address, and date of birth (if a plaintiff is a business, then you will need the business name, address, phone number and e-mail address);
- For each defendant: name, address, phone number, e-mail address, and date of birth if known (if a defendant is a business, then you will need the business name, address, phone number and e-mail address);
- Details about your claim (including amount and approximate date);
- The county and judicial district number where case will be filed.

Step 1

Fill Out *Plaintiff's Statement of Claim* (CCT102)



Section A – The "Caption"

A. List the county where you will be filing your Conciliation Court case. If you are not sure where you should file, please talk to an attorney. Court staff cannot tell you where to file your case.

The general rule is that you must file your *Plaintiff's Statement of Claim* in the county where the defendant lives. There are exceptions, though:

- You may sue for a bounced check in the county where the check was issued.
- You may make a claim for unpaid rent or return of a security deposit in the county where the rental property is located.
- You may sue corporations in the county where their business office or branch office is located.

B. List the Judicial District. Each county belongs in one of ten judicial districts. If you need help, see http://www.mncourts.gov/Find-Courts.aspx.

Leave "Court File Number" line blank. Court administration will give you the court file number after you file your case.

The case type (*Conciliation*) is already filled in for you.

C. As the person or business suing (bringing the claim), you are the **Plaintiff**. List your full name and address. If there is more than one plaintiff, then you will be *Plaintiff #1*. The next plaintiff will be *Plaintiff #2*.

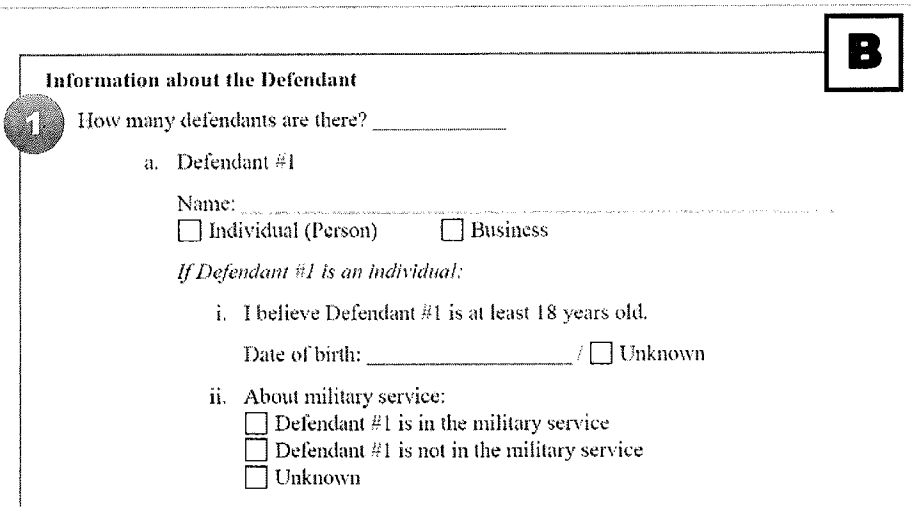
This form has room for only two plaintiffs. If there are more than two, you will have to use *Additional Litigants Form* (CCT702). The *Additional Litigants Form* will allow you to include up to four plaintiffs. If you have more than four plaintiffs, please check with Court Administration in the county where you will be filing your claim.

D. The person or business being sued is the **Defendant**. If there is more than one defendant, then the first one listed will be *Defendant #1*. The second person or business being sued will be *Defendant #2*. For each defendant, please list the full name and address.

NOTE: If you are suing a business, it is important that you have the name of the business correct. On the MN Secretary of State's website, you can look up a business to see if it is registered with the state. You might find the name of the person or company listed as the business' "registered agent" who can receive " service of process" (that person or company should be served with legal papers), and the official business address. The address of the "registered agent" can be different from the official business address.

You can look up a business at https://mblsportal.sos.state.mn.us/Business/Search .

This form has room for only two defendants. If there are more than two, you will have to use *Additional Litigants Form* (CCT702). The *Additional Litigants Form* will allow you to include up to four defendants. If you have more than four defendants, please check with Court Administration in the county where you will be filing your claim.



B

Information about the Defendant

1 How many defendants are there? _____

a. Defendant #1

Name: _____

☐ Individual (Person) ☐ Business

If Defendant #1 is an individual:

i. I believe Defendant #1 is at least 18 years old.

Date of birth: _____ / ☐ Unknown

ii. About military service:

☐ Defendant #1 is in the military service

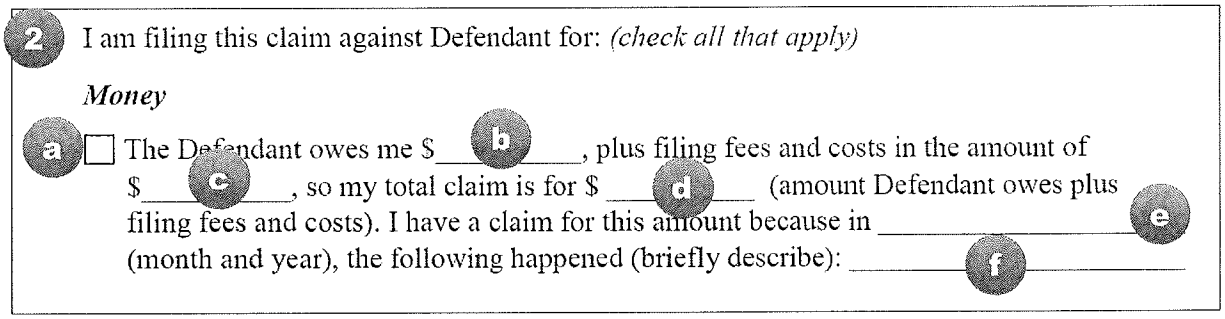
☐ Defendant #1 is not in the military service

☐ Unknown

Section B – Information about the Defendant and the Claim

1. **Information about each defendant.** First, list the total number of defendants you are suing. Then for each defendant, list the following:
   - The name of the defendant;
   - Whether the defendant is an individual (person) or a business; and
   - If the defendant is an individual:
     - The defendant's date of birth (if you know it); and
     - Whether the defendant is in the military service.

2. **Information about the Claim.** In Conciliation Court, you can sue another person or business because they owe you money or because they have property that belongs to you.



a. Check this box if Defendant owes you money.

b. List the amount of money Defendant owes you. Please see the section above titled "*Do you have a claim to file in conciliation court?*" to read about Conciliation Court dollar limits.

c. In this blank, you will need to figure out the filing fees (and allowable costs, if any).

   Conciliation Court filing fee: You will need the Conciliation Court filing fee for the county you listed in # 1. You can find the filing fees online starting at http://mncourts.gov/Help-Topics/Court-Fees.aspx, or you can ask Court Administration.

   Costs: Sometimes there are additional costs; for example, if you file electronically, there is a cost of $5.00 to do so.

   If you are not sure if you have costs that are allowed to be included, please talk to an attorney for legal advice.

d. Add the amount you listed in "b" to the amount listed in "c". This is the total amount of your claim.

For the next two items, think about why Defendant owes you money. What happened? When did it happen?

e. List the month and year (for example, 10/2020) that something happened that made Defendant owe you money.

f. Describe what happened. Why does Defendant owe you money? Be brief and include important details (but do not list sensitive personal information like bank account numbers).

Property

g ☐ The Defendant has the following property that belongs to me (list property): h

_____

_____

My property is valued at $ i . The filing fees and costs for this case are $ j . I want the court to order this property returned to me or make the Defendant pay me $ k (property's value plus the filing fees and costs).

g. Check this box if Defendant has property that belongs to you, and you want to ask the Court to order Defendant to return the property.

h. List your property that Defendant has.

i. What is the value of your property? Please read the section on page 2 titled "*Do you have a claim to file in conciliation court?*" to read about Conciliation Court limits.

j. In this blank, you will need to figure out the filing fees (and allowable costs, if any).

Conciliation Court filing fee: You will need the Conciliation Court filing fee for the county you listed in # 1. You can find the filing fees online starting at http://mncourts.gov/Help-Topics/Court-Fees.aspx, or you can ask Court Administration.

Costs: Sometimes there are additional costs; for example, if you file electronically, there is a cost of $5.00 to do so.

If you are not sure if you have costs that are allowed to be included, please talk to an attorney for legal advice. A legal advice clinic may be available in your county. Go to www.mncourts.gov/helptopics and choose "Legal Advice Clinics" to see if one is available.

k. Add the amount you listed in "i" to the amount listed in "j." This is the total amount of your claim (the amount you are asking Defendant pay you if Defendant does not return your property).

Section C – Statement About Appearing

3 I understand that if I do not come to court on my hearing date, my case may be dismissed and I may have to pay money to Defendant on any counterclaim that has been filed.

3. Thisis your statement to the court and to the other party about appearing at the Conciliation Court hearing. If you do not go to the hearing, your case can be dismissed, and you may have to pay money to Defendant if a counterclaim has been filed.

Step 2

Sign the *Plaintiff's Statement of Claim* (CCT102)

Sign the *Plaintiff's Statement of Claim* form (CCT102), and print your phone number, date of birth, and e-mail address in the blanks under the signature line. When you sign the *Plaintiff's Statement of Claim*, you are signing under *penalty of perjury*. This means you are saying that everything in the form is true and correct; if you know something in the form is not true when you sign it, you could be found guilty of the crime of perjury (see Minn. Stat. § 609.48, https://www.revisor.mn.gov/statutes/?id=609.48).

Are you representing a business? If yes, then be sure to attach the *Power of Attorney for Conciliation Court* (CCT701) to your *Plaintiff's Statement of Claim* (CCT102).

The *Power of Attorney for Conciliation Court* is a form that an officer of the business entity (corporation, partnership, sole proprietorship, association) signs to give you authority to act on behalf of the business in conciliation court.

Is there more than one plaintiff? If yes, then you are Plaintiff # 1. The next plaintiff is Plaintiff # 2, and so on. If you have more than two plaintiffs (or more than two defendants), you will need to fill out CCT702, the *Additional Litigants Form.* If you have more than four plaintiffs or more than four defendants, please check with Court Administration. **Each plaintiff must sign the *Plaintiff's Statement of Claim*.**

Step 3

File Original Forms with Court Administration and Pay Filing Fee

You will need to file the original *Plaintiff's Statement of Claim* (CCT102) with Court Administration. You may also need to file the *Additional Litigants Form* (CCT702) and the *Power of Attorney for Conciliation Court* (CCT701), depending on your situation.

When you file the original forms with Court Administration, there will be a filing fee of at least $65 (in some counties, there is an additional amount for the law library fee). You can find the filing fees for your county online starting at http://mncourts.gov/Help-Topics/Court-Fees.aspx.

If you are a person (not a business) and cannot afford to pay the filing fee, please fill out the *Affidavit of Inability to Pay Conciliation Court Fee* (CCT104) and file it when you file the other Conciliation Court papers. CCT104 is available online at http://mncourts.gov/GetForms.aspx?c=10&f=173 .

Step 4

Serve Each Defendant (if required)

Court Administration will create a *Summons* with a court date for the hearing. Depending on the amount of your claim, and where the Defendant is located, Court Administration may serve the *Plaintiff's Statement of Claim* and *Summons* or send you instructions for service.

Rule 508(d) of the Minnesota General Rules of Practice describes how each defendant should be served with the *Plaintiff's Statement of Claim.*

If Defendant's address is within the county you're filing in, and if your claim is less than $2500, then the Court Administrator will try to serve Defendant.

If your claim is for more than $2500, then you must serve Defendant by certified mail, and you must file proof of service with Court Administration within 60 days of when the Summons was issued.

- Fill out *Conciliation Court Affidavit of Service* (CCT103) after serving Defendant to prove service. CCT103 is available online at http://mncourts.gov/GetForms.aspx?c=10&f=172 .

If a defendant does not live in Minnesota, you will be required to serve that defendant. Please check with Court Administration if you have any questions about serving a defendant in Conciliation Court.

Step 5

Prepare for Your Hearing, then Appear at the Hearing

Conciliation Court hearings are informal, but you must be prepared to present your case. If a witness does not want to appear, you can ask Court Administration for a subpoena to order them to appear. There is a fee for each subpoena. Written statements and affidavits of people who do not appear in court have very little value, and the judge may not accept them as evidence.

You should also **bring all other relevant evidence** to court such as receipts, repair bills, estimates, and other items to help prove your claim. If a defendant or some other person has documents relating to your claim that they will not give to you, you can get a subpoena to require the person to give you the documents.

Before you go to court, **prepare a list of facts you want to present.** Organize your presentation as clearly and completely as possible so you will not forget important facts and details.

There is a 10-minute video on the MN Judicial Branch website called "How to Handle a Conciliation Court Hearing." You can watch that video to get tips on how to prepare for your Conciliation Court hearing. See http://www.mncourts.gov/documents/50/Public/videos/Conciliation%20Court%20Hearing/conciliationvideo.htm .

What happens if you do not appear for the hearing?
All parties must appear at the hearing. If you do not appear at the hearing, the judge may dismiss your claim or award a "default" judgment against you on any counterclaims.

For more information about Conciliation Court, please look at the "Conciliation Court" Help Topic online starting at http://mncourts.gov/Help-Topics/Conciliation-Court.aspx .

State of Minnesota **Conciliation Court**

County of:	Judicial District: _____ Court File Number: _____ Case Type: Conciliation

PLAINTIFF'S STATEMENT OF CLAIM

Plaintiff #1

Name:
Address:
City/State/Zip

Plaintiff #2

Name:
Address:
City/State/Zip:

Defendant #1

Name:
Address:
City/State/Zip:

Defendant #2

Name:
Address:
City/State/Zip

☐ Check box if there are more than two plaintiffs or more than two defendants. List the information for the other parties on the *Additional Litigants Form*, CCT702.

Information about the Defendant

1. How many defendants are there? _____

a. Defendant # 1

Name: _____

☐ Individual (Person) ☐ Business

If Defendant # 1 is an individual:

i. I believe Defendant #1 is at least 18 years old.

Date of birth: _____ / ☐ Unknown.

ii. About military service:

☐ Defendant #1 is in the military service

☐ Defendant #1 is not in the military service

☐ Unknown.

b. Defendant # 2

Name: _____

☐ Individual (Person) ☐ Business

If Defendant # 2 is an individual:

i. I believe Defendant #2 is at least 18 years old.

Date of birth: _____ / ☐ Unknown.

ii. About military service:

☐ Defendant # 2 is in the military service

☐ Defendant # 2 is not in the military service

☐ Unknown.

If there are more than 2 defendants, use the *Additional Litigants Form (CCT702).*

Information about the Claim

2. I am filing this claim against Defendant for: *(check all that apply)*

Money

☐ The Defendant owes me $ _____, plus filing fees and costs in the amount of $ _____, so my total claim is for $ _____(amount Defendant owes plus filing fees and costs). I have a claim for this amount because in _____(month and year), the following happened (briefly describe):

_____

_____

_____

_____

_____

_____

_____

Property

☐ The Defendant has the following property that belongs to me (list property):

_____

_____

_____

_____

_____

_____

_____

My property is valued at $ _____. The filing fees and costs for this case are

$ _____ . I want the court to order this property returned to me or make the Defendant pay me $ _____ (property's value plus the filing fees and costs).

3. I understand that if I do not come to court on my hearing date, my case may be dismissed and I may have to pay money to the Defendant on any counterclaim that has been filed.

Important! Each plaintiff must sign the *Statement of Claim* form and include the date signed, the name of the state and county where signed, and provide the following information: title, if any, telephone number, date of birth, and e-mail address.

I declare under penalty of perjury that everything that I have stated in this document is true and correct. Minn. Stat. § 358.116.

_____ Signature (Plaintiff #1)	_____ Signature (Plaintiff #2) OR ☐ There is only 1 plaintiff
DATE: _____	DATE: _____
_____ County and State where signed	_____ County and State where signed
_____ Name	_____ Name
_____ Title, if any	_____ Title, if any
_____ Telephone	_____ Telephone
_____ Date of birth	_____ Date of birth
_____ Email Address	_____ Email Address

NOTE: If there are more than 2 plaintiffs, all of the other plaintiffs must sign the *Statement of Claim* form and include the information listed above.

State of Minnesota **Conciliation Court**

County of:	Judicial District: _____ Court File Number: _____ Case Type: Conciliation

_____

_____
Plaintiff (first, middle, last)

vs.

_____

_____
Defendant (first, middle, last)

Conciliation Court Affidavit of Service

☐ Check box if there are more than two plaintiffs or more than two defendants. list the other parties on the *Additional Litigants Form*, CCT702.

My name is _____. I make the following statement about service:

1. ☐ **Service by Mail**

I am over the age of 18. On _____ , I served the following documents:

- ☐ Summons: Conciliation Court
- ☐ Plaintiff's Statement of Claim
- ☐ Motion to Vacate Judgment *and* Supporting Affidavit
- ☐ Demand for Removal/Limited Removal
- ☐ Other document (specify): _____

by placing a true and correct copy of the document(s) in an envelope addressed as follows:

Name of party served: _____

☐ I served this party's attorney instead of the party

Address: _____

_____

(the last known address) and **mailing the envelope in the United States mail by** (*check all that apply)*:

- ☐ **Regular first class mail.**
- ☐ **Certified Mail, postage prepaid.**

2. ☐ **Personal Service**

I am over the age of 18. I am not a party in this case. I served the following documents:

☐ Summons: Conciliation Court

☐ Plaintiff's Statement of Claim

☐ Motion to Vacate Judgment *and* Supporting Affidavit

☐ Demand for Removal/Limited Removal

☐ Other document (specify): _____

by delivering a copy personally to the following:

Name of party served: _____

☐ I delivered the documents to this party's attorney instead of the party

Where served: _____

_____

When served (date and time): _____

3. ☐ **Service not completed (party not found)**

After a careful search, I was not able to find the following party (or any residence or business address for this party): _____.

I could not find a way to serve this party.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____

_____
County and State where signed

_____
Signature

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

E-mail address: _____

State of Minnesota

County

District Court

Judicial District:	
Court File Number:	
Case Type:	

_____
Plaintiff

vs.

_____
Defendant

Affidavit of Inability to Pay Conciliation Court Filing Fee

STATE OF MINNESOTA)
) SS
COUNTY OF _____)
County where Affidavit is signed

_____, states the following:

1. I am a natural person and a party in the above-entitled action.

2. I have reviewed the Federal Poverty Guidelines and do not have the ability to pay the conciliation court filing fee.

3. I understand that if the court finds in my favor on my claim or counterclaim, the amount of the fees which I would have had to pay to file this claim or counterclaim, must be included in the order for judgment and paid to the administrator of conciliation court by me out of any money recovered by me on the judgment.

By signing this Affidavit, I am certifying that these statements are true under penalty of perjury. I understand that if I provide false information on the Affidavit it may lead to criminal charges. I am authorizing that the facts contained in this Affidavit may be verified by any means required.

Dated: _____

_____
Signature

Name: _____

Address: _____

City / State / Zip: _____

E-mail address: _____

Telephone: _____

831

State of Minnesota **Conciliation Court**

County of:	Judicial District: _____ Court File Number: _____ Case Type: Conciliation

SETTLEMENT AGREEMENT AND ORDER

Plaintiff #1	**Plaintiff #2**
Name:	Name:
Address:	Address:
City/State/Zip	City/State/Zip:

Defendant #1	**Defendant #2**
Name:	Name:
Address:	Address:
City/State/Zip:	City/State/Zip

Based on the parties' settlement agreement stated below, IT IS SO ORDERED:

☐ Money Settlement

On or before _____ ☐ Plaintiff / ☐ Defendant shall pay to ☐ Plaintiff / ☐ Defendant , the amount of _____ by:

☐ Cash ☐ Money Order

☐ Personal Check ☐ Other _____

☐ Cashier's Check

☐ Payment is to be made in full on or before _____ .

☐ Payment is to be made in installments not exceeding one year. The first installment payment shall be received on _____ in the amount of _____ . Remaining payments are to be received according to the following schedule:

_____

_____

_____

☐ Return of Property:

On or before _____ ☐ Plaintiff / ☐ Defendant shall return to ☐ Plaintiff / ☐ Defendant , the following property:

_____

_____

_____

_____

If the property is not returned by the date listed above,

☐ the judgment shall be entered in the amount of _____, which is the value of the property plus feed, if any; or

☐ The Sheriff of the county in which the property is located is authorized and directed to effect repossession of such property according to Minn. Stat. § 491A.01, subd.5, turn the property over to ☐ Plaintiff / ☐ Defendant .

☐ Other Agreement:

_____

_____

_____

_____

Plaintiff(s) and Defendant(s) agree that if this settlement agreement is not followed, either party can file an *Affidavit of Noncompliance* (CCT107) explaining how the settlement was violated, and the court may enter judgment against the other party without a hearing.

_____ _____

Plaintiff # 1 Signature Defendant # 1 Signature

_____ _____

Plaintiff # 2 Signature Defendant # 2 Signature

Dated: _____ _____

Judge/Referee

State of Minnesota **Conciliation Court**

County of:	Judicial District: _____ Court File Number: _____ Case Type: Conciliation

DEFENDANT'S STATEMENT OF COUNTERCLAIM

Plaintiff #1

Name:
Address:
City/State/Zip

Plaintiff #2

Name:
Address:
City/State/Zip:

Defendant #1

Name:
Address:
City/State/Zip:

Defendant #2

Name:
Address:
City/State/Zip

☐ Check box if there are more than two plaintiffs or more than two defendants. List the information for the other parties on the *Additional Litigants Form*, CCT702.

Information about the Plaintiff

1. How many plaintiffs do you have a counterclaim against? _____

a. Plaintiff # 1

Name: _____

☐ Individual (Person) ☐ Business

If Plaintiff # 1 is an individual:

i. I believe Plaintiff #1 is at least 18 years old.

Date of birth: _____ / ☐ Unknown.

ii. About military service:

☐ Plaintiff #1 is in the military service

☐ Plaintiff #1 is not in the military service

☐ Unknown.

b. Plaintiff # 2

Name: _____

☐ Individual (Person) ☐ Business

If Plaintiff # 2 is an individual:

i. I believe Plaintiff #2 is at least 18 years old.

Date of birth: _____ / ☐ Unknown.

ii. About military service:

☐ Plaintiff # 2 is in the military service

☐ Plaintiff # 2 is not in the military service

☐ Unknown.

If there are more than 2 plaintiffs, use the *Additional Litigants Form (CCT702).*

Information about the Counterclaim

2. I am filing this counterclaim against Plaintiff for: (*check all that apply)*

Money

☐ The Plaintiff owes me $ _____, plus filing fees and costs in the amount of $ _____, so my total claim is for $ _____(amount Plaintiff owes plus filing fees and costs). I have a claim for this amount because in _____(month and year), the following happened (briefly describe):

_____

_____

_____

_____

_____

_____

_____

Property

☐ The Plaintiff has the following property that belongs to me (list property):

_____

_____

_____

_____

_____

_____

_____

My property is valued at $ _____. The filing fees and costs for this case are

$ _____ . I want the court to order this property returned to me or make the Plaintiff pay me $ _____ (property's value plus the filing fees and costs).

3. I understand that if I do not come to court on my hearing date, my case may be dismissed and I may have to pay money to the Plaintiff on any claim that has been filed.

Important! Each defendant joining this counterclaim must sign the *Statement of Counterclaim* form and include the date signed, the name of the state and county where signed, and provide the following information: title, if any, telephone number, date of birth, and e-mail address.

I declare under penalty of perjury that everything that I have stated in this document is true and correct. Minn. Stat. § 358.116.

_____ Signature (Defendant #1)	_____ Signature (Defendant #2) OR ☐ There is only 1 defendant
DATE: _____	DATE: _____
_____ County and State where signed	_____ County and State where signed
_____ Name	_____ Name
_____ Title, if any	_____ Title, if any
_____ Telephone	_____ Telephone
_____ Date of birth	_____ Date of birth
_____ Email Address	_____ Email Address

NOTE: If there are more than 2 defendants, all of the other defendants must sign the *Statement of Counterclaim* form and include the information listed above.

Instructions for Appealing a Conciliation Court Judgment
Conciliation Court

DO THIS BEFORE THE DEADLINE SPECIFIED IN THE *NOTICE OF JUDGMENT* MAILED TO YOU

Failure to follow all the requirements of the laws and rules governing removal to District Court may result in dismissal of your appeal.

The appeal forms are available free of charge at any Court Administrator's office and online at http://mncourts.gov/GetForms.aspx?c=10#subcat88, and must be completed by you or your attorney. Additional filings fees are required. A person who is unable to pay the filing fee may apply for a fee waiver (see http://mncourts.gov/Help-Topics/Fee-Waiver-IFP.aspx).

The following is a brief explanation of the requirements for filing an appeal. You or your attorney must perform these steps by the date specified on the *Notice of Judgment*, which was mailed or delivered to you.

1. **Complete the form**
Fill out the *Demand for Removal/Appeal from Conciliation Court to District Court and Affidavit of Good Faith* form (CCT402). The Conciliation Court File Number and title of the case must be the same as they appear on the *Notice of Judgment* that you received. The *Demand for Removal* tells the court and the other party that you want to start over with a new trial where you will again bring your evidence and make your legal arguments. You must have a good faith reason for requesting a new trial.

2. **Sign the completed Demand for Removal form**
If a lawyer represents the appealing party, the lawyer's name, address and phone number must be printed on the form. If the appealing party is a corporation, a lawyer must represent the corporation and the lawyer must sign the form. **If the appealing party is self-represented, the party must sign the form and list his/her address and telephone number.**

3. **Make copies**
Make a copy of the completed and signed form for each party to the action, including yourself.

4. **Serve a copy of the form**
A copy of the *Demand for Removal/Appeal form Conciliation Court to District Court and Affidavit of Good Faith* must be served on each opposing party or their attorney by first class mail. Rules of General Practice 521(b)(1).

Service may also be by personal service. See Minnesota Rules of Court, Rules of Civil Procedure, Rule 4.03 Personal Service. Personal service must be made by someone at least eighteen (18) years of age and not a party to the action. Papers cannot be served on legal holidays as defined in Minn. Stat. § 645.44, subd. 5 (https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5).

5. **Complete the "Affidavit of Service" Form (CCT103)**
   The *Affidavit of Service* tells the Court who served the papers on the other parties and how and when the papers were served. Service must be completed within 21 days of the date that the Court mailed or delivered the *Notice of Judgment* to you and before the deadline specified in the *Notice*.

   The person who served the papers (by mail or by personal service) should complete the *Affidavit of Service* form and sign it under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

6. **File forms with the Court**
   The *Demand for Removal/Appeal* form with a completed *Affidavit of Service* form must be filed with the Court Administrator's Office. A filing fee must be paid at time of filing, or a fee waiver must be completed and approved by a judge.

   You or your attorney must perform all of these steps by the date specified on the *Notice of Judgment* that was mailed or delivered to you.

If you do not understand the procedures or are unable to prepare the necessary forms, you should consult with an attorney.

Helpful materials may be found at your public county law library. For a directory, see http://mn.gov/law-library/research-links/county-law-libraries.jsp . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

State of Minnesota **Conciliation Court**

County of:

Judicial District: _____
Court File Number: _____
Case Type: Conciliation

Plaintiff #1

Name:
Address:
City/State/Zip

Plaintiff #2

Name:
Address:
City/State/Zip

PLEASE PRINT

Defendant #1 VS.

Name:
Address:
City/State/Zip

Defendant #2 VS.

Name:
Address:
City/State/Zip

Demand for Removal/Appeal From Conciliation Court to District Court and Affidavit of Good Faith

To _____ the above named

☐ Plaintiff ☐ Defendant. _____ , states:
(Appellant or Attorney)

That the appealing party is aggrieved by the judgment in Conciliation Court and hereby demands the removal of the above case from Conciliation Court to the District Court for trial De Novo (new trial) by ☐ court ☐ jury.

AND

That this appeal is made in good faith and not for the purpose of delay.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116

Date: _____

_____
Signature of Attorney or the Party if pro se
If appealing party is a corporation, the party's attorney must sign

_____
County and State where signed

Name of Attorney, or party if pro se:

_____

Address: _____

City/State/Zip: _____

Telephone: _____

E-mail address: _____

State of Minnesota **Conciliation Court**

County of:

Judicial District: _____
Court File Number: _____
Case Type: Conciliation

Affidavit of Service

_____, state the following:

I am at least eighteen (18) years of age and not a party to the above-entitled matter. On (date) _____ I served the attached Demand for Removal/Appeal From Conciliation Court to District Court and Affidavit upon _____ by:

(Name of opposing party served or opposing party's lawyer)

Check one:

☐ (Service by First Class Mail) Placing in an envelope a true and correct copy of each document addressed to _____ at _____ in the City of _____, State of _____, Zip Code _____ and depositing the envelope, with sufficient postage, in the United States Mail at the Post Office located in the City of _____, in the State of _____.

☐ (Personal Service) Personally by handing to and leaving with him/her a true and correct copy.

☐ (Substituted Personal Service) At his/her usual abode at _____

(Street, City, State)

by handing to and leaving a true and correct copy with _____ a person of suitable age, (eighteen (18) years or older) and discretion who also resides at that address.

☐ (Personal Service on a Corporation or a Partnership) Personally delivering true and correct copy to:

☐ Agent authorized to receive service of Process:

_____

(Name of agent served)

☐ Officer, Managing Agent, or Member of the entity:

_____

(Name and title of person served)

I declare under penalty of perjury that everything that I have stated in this document is true and correct. Minn. Stat. § 358.116.

Date: _____ _____

Signature of person who served papers

_____

County and State where signed

Instructions for Limited Removal of a Conciliation Court Case to District Court

If your request to vacate a default judgment is denied, you may demand "limited" removal of this motion to the district court for re-hearing. A limited removal is also available for appeal of certain other motions.

You must comply with the Conciliation Court Rules 520 and 521 of the Minnesota General Rules of Practice which govern limited removals to district court. If you do not understand what is required, it is suggested that you consult with an attorney.

Keep in mind that this is a *limited* removal, and the judge will decide only the issue of whether or not the default judgment should be vacated and a new trial granted. If the district court judge grants your motion to vacate the default judgment, the case will be returned to conciliation court for new trial of your case. If the judge denies your motion, the judgment stands. However, you may appeal the judge's decision to the Minnesota Court of Appeals within the required time. See the Rules of Civil Appellate Procedure.

Procedure:

1. **Get the forms** from court administration or online (http://mncourts.gov/GetForms.aspx?c=10#subcat88):
   a. *Demand for Limited Removal to District Court, Affidavit of Good Faith, and Notice of Hearing De Novo (New Hearing)* (CCT502);
   b. *Affidavit of Service for Limited Removal* (CCT503) **OR** the *Conciliation Court Affidavit of Service* (CCT103).
2. **Fill Out the *Demand for Limited Removal to District Court...*** and sign it under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions. Be sure that the conciliation court case number and the caption (__ vs. __) are exactly the same as on the *Notice of Judgment*.
3. **Make copies.** Make one copy of the form for each party in the case, including yourself.

The next 3 steps (4-6) are about *serving* and *filing*.

- *Serving* is the making sure all the other parties in your case receive a copy of your *Demand.*
- *Filing* means giving your *Demand* (and *Affidavit of Service,* explained below) to court administration and paying the filing fee.

If you cannot afford the filing fee, you may apply for a waiver pursuant to Minn. Stat. § 563.01. See http://mncourts.gov/Help-Topics/Fee-Waiver-IFP.aspx.

Your **deadline for serving and filing** the completed forms **depends on how you received the *Notice of Denial of Motion to Vacate***:

*If the court gave you the Notice of the Denial to you **electronically or in person***, serve and file the completed forms with the conciliation court within **21 days** of the date the *Notice of Denial of Motion to Vacate* was sent electronically or given to you in person. The date is specified on the *Notice*.

If the court sent the Notice to you ***through the mail***, then you add an extra 3 days, so you would have to serve and file the completed forms within **24 days** of the date the *Notice* was sent to you.

4. **SERVE a Copy of the Completed *Demand* Form.**

   A copy of your *Demand for Limited Removal to District Court* must be served on each opposing party or their attorney by first class mail or by personal service. Personal service must be done by someone at least 18 years old and not a party to the case. Papers cannot be served on legal holidays as defined in Minn. Stat. § 645.44, subd. 5 (https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5).

5. **Complete the *Affidavit of Service* (CCT103)** or ***Affidavit of Service for Limited Removal* (CCT503).**

   The *Affidavit of Service* tells the Court who served the papers on the other parties and how and when the papers were served.

   The person who served the papers (by mail or by personal service) should complete the *Affidavit of Service* form (CCT103 or CCT503) and sign it under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

6. **FILE the Forms with the Conciliation Court.** You will need to pay the district court filing fee or ask for a fee waiver.

Helpful materials may be found at your public county law library. For a directory, see http://mn.gov/law-library/research-links/county-law-libraries.jsp . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

State of Minnesota **Conciliation Court**

County

Judicial District:	
Court File Number:	
Case Type:	

Plaintiff

vs.

Defendant

Demand for Limited Removal to District Court, Affidavit of Good Faith, and Notice of Hearing De Novo (New Hearing) Minn. R. Gen. Pract. 521(e)

State of Minnesota)
) SS
County of _____)

Pursuant to Rule 520, _____ filed a motion requesting the order
(Plaintiff/Defendant)
for judgment be vacated and this motion was denied by the Court.

☐Plaintiff ☐Defendant wishes to appeal the denial of his/her motion in this matter and is removing the matter from the Conciliation Court to the District Court for a De Novo (new hearing) of this motion challenging denial of the removal. In accordance with the provisions of Minnesota Statute Section 491A and Conciliation Court Rule of General Practice 521(e), this removal is made in good faith and not for purpose of delay.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____

_____
Signature

Name: _____

Address: _____

City/State/Zip: _____

Telephone: (_____) _____

E-mail address: _____

NOTICE OF HEARING

You will please take notice that the hearing De Novo (new hearing) on the motion challenging denial of the removal will be held on _____, at _____ at ____
(date) (time)

_____
(address, city, state)

853

State of Minnesota

County

District Court

Judicial District:	
Court File Number:	
Case Type:	

_____
Plaintiff

vs.

_____
Defendant

Affidavit of Service on Limited Removal from Conciliation Court

STATE OF MINNESOTA)
) SS
COUNTY OF _____)

_____, states:

1. I am over eighteen years of age and not a party in the above-entitled action.

Check and complete one of the following:

☐ 2. On the _____day of _____, _____, I served the Demand For Limited Removal upon _____, plaintiff/defendant or attorney for _____), by placing a true and correct copy of it in an envelope addressed as follows:

_____

_____

which is the last known address of said party or attorney and depositing it, postage prepaid, in the United States mail.

☐ 3. I served a copy of the Demand for Limited Removal on _____ _____, (title) _____, by delivering a copy personally to him/her at _____ at _____ am/pm, on _____.

☐ 4. After diligent search and inquiry, I was unable to locate _____ _____(name of party to be served), or any residence or business address for him/her at which service could be attempted.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____

_____
Signature of Server

855

State of Minnesota **Conciliation Court**

County of:	Judicial District: _____ Court File Number: _____ Case Type: Conciliation

_____

_____
Plaintiff (first, middle, last)

vs.

_____

_____
Defendant (first, middle, last)

Request to Vacate Order for Judgment and Grant New Trial

(To be filed within 21 days of the Conciliation Court Order and Judgment)

Minn. R. Gen Prac. 520 (a)

☐ Check box if there are more than two plaintiffs or more than two defendants. list the other parties on the *Additional Litigants Form*, CCT702.

My name is _____, and I am the

☐ Plaintiff ☐ Defendant in this case, which was called for hearing on the following date:

_____. I did not attend the hearing for the following reasons:

_____

_____

_____

_____

I believe this is a just cause or defense, and I ask the court to vacate the conciliation order and judgment entered in this case less than 21 days ago, and to grant a new trial pursuant to Conciliation Court Rule 520(a).

I declare under penalty of perjury that everything that I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____

_____
County and State where signed

_____
Signature

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

E-mail address: _____

State of Minnesota **Conciliation Court**

County

Judicial District:	
Court File Number:	
Case Type:	Conciliation

Power of Attorney for Conciliation Court Case

Minn. Stat. § 491A.02, Subd. 4(a)

According to Minn. Stat. § 491A.02, Subd. 4(a), a corporation, partnership, limited liability company, sole proprietorship, or association may be represented in conciliation court by an officer, manager, or partner (or an agent in the case of a condominium, cooperative, or townhouse association), or may appoint an employee or commercial property manager to appear on its behalf or settle a claim in conciliation court.

My name is _____.

My title is _____.

I am with _____ (name of business entity), which is a (circle one): corporation, partnership, sole proprietorship, association.

I authorize _____ (name of employee or commercial property manager) **to appear on the entity's behalf (including the ability to start and to settle a claim) in conciliation court in Minnesota.**

_____ _____

Date Signature

Printed Name: _____

Title: _____

Address: _____

_____

City, State, Zip: _____

Telephone: _____

E-mail: _____

8601

State of Minnesota **Conciliation Court**

County

Judicial District:
Court File Number:
Case Type:

Plaintiff # 1

Name
Address
City/State/Zip

Plaintiff # 2

Name
Address
City/State/Zip

vs

Defendant # 1

Name
Address
City/State/Zip

Defendant # 2

Name
Address
City/State/Zip

Conciliation Court
Additional Litigants Form

Plaintiff # 3

Name
Address
City/State/Zip
Date of Birth

Plaintiff # 4

Name
Address
City/State/Zip
Date of Birth

Defendant # 3

Name
Address
City/State/Zip
Date of Birth
Military Service: ☐ Yes ☐ No ☐ Unknown

Defendant # 4

Name
Address
City/State/Zip
Date of Birth
Military Service: ☐ Yes ☐ No ☐ Unknown

863

INSTRUCTIONS - WAIVER OF COURT FEES AND COSTS
(IN FORMA PAUPERIS)
Minnesota Statutes § 563.01

If you cannot afford to pay court fees and costs, you may be able to have these fees and costs waived. Under the law, the court can waive these fees and costs if:

1. You are receiving public assistance under one or more of the following programs:

   Minnesota Family Investment Plan (MFIP), MFIP-Emergency Assistance, or MFIP-Diversionary Assistance; General Assistance or Emergency General Assistance; Medical Assistance or General Assistance Medical Care; Food Stamps; Supplemental Security Income; Minnesota Supplemental Assistance (MSA) or MSA-Emergency Assistance; Energy Assistance.

OR

2. You are represented by a legal services or volunteer attorney on behalf of a civil legal services program or a volunteer attorney program based on indigence.

OR

3. Your annual family income before taxes is less than 125% of the Federal Poverty Guidelines (2020 figures) for your family size as indicated below.

Maximum Income Level – 125% of Poverty

Please Check Your Family Size	Size of Family Unit	Annual Family Income Before Taxes	Monthly Family Income Before Taxes	Weekly Family Income Before Taxes
	1	$ 15,950	$ 1,329	$ 307
	2	$ 21,550	$ 1,796	$ 414
	3	$ 27,150	$ 2,263	$ 522
	4	$ 32,750	$ 2,729	$ 630
	5	$ 38,350	$ 3,196	$ 738
	6	$ 43,950	$ 3,663	$ 845
	7	$ 49,550	$ 4,129	$ 953
	8	$ 55,150	$ 4,596	$ 1,061

More than 8 members, add $5600 annually for each additional family member (or $467 monthly or $108 weekly)

Number of family members: _____ Calculate and enter figure here: $ _____

OR

4. Your income is not enough to pay for the common necessities of life for yourself and the people you support and also to pay court fees and costs.

If you believe you meet one of the categories above, you can apply to proceed In Forma Pauperis (the Latin title used to describe the procedure for waiver of court fees and costs).

STEP 1: Complete the *Affidavit for Proceeding In Forma Pauperis.* Sign the *Affidavit for Proceeding In Forma Pauperis* under penalty of perjury. This means you are stating that the information in the *Affidavit* is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions. Make sure you attach copies of any documents requested on the form, such as proof of public assistance, etc.

STEP 2: Complete the case heading for the *Order Denying / Granting In Forma Pauperis.* The case heading (name of Plaintiff/Petitioner and Defendant/Respondent, etc.) should match your *Affidavit for Proceeding In Forma Pauperis.* The rest of the order can be left blank. The judge will decide whether to sign the section denying or granting the order based on the information you provide.

STEP 3: File these documents with the Court Administrator. The staff person will tell you the procedures for having a judge review your application.

If the judge grants your request to waive fees and/or costs, the order will only apply to the court case listed in the caption of the *In Forma Pauperis* (IFP) order. The IFP order will expire one year from the date of the order. The court may alter or amend the order at any time before expiration of the order. If the court action is not resolved before the expiration date of the IFP order and other fees or costs are required to be paid, you will need to fill out another *In Forma Pauperis Appication* or *Supplemental In Forma Pauperis Application.*

If you have any questions and cannot afford an attorney, you may wish to consult the legal aid office, legal services office, or lawyer referral service in your county (listed in the yellow pages under "Attorneys"), or by going to www.lawhelpmn.org.

Helpful materials may be found at your public county law library. For a directory, see http://mn.gov/law-library/research-links/county-law-libraries.jsp . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

CONFIDENTIAL

State of Minnesota

County

District Court

Judicial District:	
Court File Number:	
Case Type:	

_____
Plaintiff/Petitioner

vs / and

_____
Defendant/Respondent

Affidavit for Proceeding In Forma Pauperis

(Minn. Stat. § 563.01)

1. I am a party in this action. I am a natural person (not a corporation, partnership or other entity). In good faith, I request a court order waiving court fees and costs. I cannot support my family and myself and also pay or give security for costs.

2. I believe that I have valid reasons for pursuing this action. **My pleadings** (the Petition, Complaint, Answer, Appeal or other pleading) **are attached.**

3. a. ☐ I am receiving public assistance under one or more of the following **means-tested** programs:

   ☐ MSA (Minnesota Supplemental Assistance Programs);
   ☐ MFIP (Minnesota Family Investment Program);
   ☐ Food Stamps;
   ☐ General Assistance or Discretionary Work Program;
   ☐ MinnesotaCare, Medical Assistance, or General Assistance Medical Assistance;
   ☐ Energy Assistance;

   b. ☐ I am receiving public assistance under some other means-tested program: (Name the program)_____
   I have attached proof that I receive public assistance (such as MFIP card or cancelled check from agency) **or I will provide proof if requested.**

   c. ☐ I receive Supplemental Security Income (SSI) as a resource for meeting my expenses.

4. ☐ I am represented by attorney _____ on behalf of _____ a civil legal services program or volunteer attorney program, based on indigency.

5. My family size is _____. (Include yourself, your spouse, your minor children, and other dependents in your household.) For my family size, I counted myself and (list all others):

Name	Age	Relationship to you

809

6. ☐ My gross **annual** family income (before taxes and deductions) is $_____which is less than 125% of the Federal Poverty Line for my family size of _____ members. **I have attached proof of my family income or I will provide proof if requested.**

7. My gross **monthly** income before taxes and deductions is $_____. My net (take home) **monthly** income is $_____, and the source of that income is: ☐ Job / wages

   ☐ Unemployment ☐ Spousal Support ☐ Trust Income ☐ Social Security
   ☐ Other: _____

8. My spouse's gross **monthly** income before taxes and deductions is $_____ My spouse's net (take home) **monthly** income is $_____, and the source of that income is_____; OR, I do not know my spouse's income because:_____

OR ☐ I am not married.

9. All other family members and dependents living with me have net **monthly** income as follows:

Name of person	Age	Net (take home) monthly income	Source of that Income

10. I receive $ _____ per month in child support (includes medical support and/or child care support.

11. I pay $_____ per month in court-ordered child support (includes medical support and/or child care support).

12. I pay $_____ per month in court-ordered spousal support.

13. I pay $_____ per month for ☐ rent ☐ mortgage payment.

14. I own: Cash $_____
    Checking, savings and credit union accts $_____
    Cars, other vehicles (list make, year and equity value [market value minus unpaid loans])
    _____ $_____
    _____ $_____
    Real Estate (market value minus unpaid mortgage/loans)
    Homestead: $_____
    Other Real Estate: $_____
    Other personal property (jewelry, stocks, bonds, etc. - list separately)
    _____ $_____
    _____ $_____

15. I am presently $_____ in debt, excluding car loans and real estate mortgage/loans.

16. Other factors which support your request are (explain unusual medical expenses, emergencies, reasons that the family money is not available to you, or other circumstances to help the Judge understand your situation): _____

871

_____

_____

_____

_____

_____

By signing this Affidavit, I am certifying that these statements are true under penalty of perjury. I understand that if I provide false information on the form it may lead to criminal charges. I understand that failure to execute the form or failure to provide information or requested records may result in denial of my motion to proceed In Forma Pauperis. I am authorizing that the facts contained in this Affidavit may be verified by any means required.

Dated: _____ _____

Signature

_____

County and state where signed

Name: _____

Address: _____

City/State/Zip: _____

Telephone: (____) _____

E-mail address: _____

State of Minnesota

County of

District Court

Judicial District: _____
Court File Number: _____
Case Type: _____

_____
Plaintiff/Petitioner

vs.

_____
Defendant/Respondent

ORDER
☐ **DENYING**
☐ **GRANTING**
In Forma Pauperis Application
(Minn. Stat § 563.01)

Order Denying In Forma Pauperis Application

Based on the affidavit of the applicant _____ and the authority of Minn. Stat. § 563.01, the Court FINDS:

- ☐ The action is frivolous.
- ☐ The applicant is not found to be indigent and is not entitled to proceed in forma pauperis.
- ☐ The applicant has not provided the court with enough information to make a finding of indigency. The record shall be kept open until _____ to allow the applicant to submit additional evidence to the court for consideration of the application. If no additional evidence is submitted by this date, the case will be closed.
- ☐ Other: _____

IT IS ORDERED THAT: The applicant's request to proceed in forma pauperis is **DENIED.**

Recommended by:

_____
Referee of District Court Date

BY THE COURT:

_____
Judge of District Court Date

Order Granting In Forma Pauperis Application

Based on the affidavit of the applicant _____ and the authority of Minn. Stat. § 563.01, the Court FINDS:

1. The applicant's claims are
   ☐ not frivolous and applicant is financially unable to pay any fees and entitled to proceed in forma pauperis.

875

OR

☐ not frivolous and applicant does not meet the eligibility criteria under Minn. Stat. § 563.01, subd. 3(b), but is able to pay a portion of the fees, costs, and security for costs.

IT IS ORDERED THAT:

1. The applicant is authorized to proceed in forma pauperis.
2. ☐ The applicant shall not be required to pay any fees, costs and security.

   OR

   ☐ The applicant shall pay $_____ towards fees, costs and security, and shall be due immediately upon filing.
3. All necessary pleadings in this proceeding shall be served by the Sheriff of the appropriate county as requested without payment of any fees or costs.
4. If, following commencement of the action, the applicant no longer meets the eligibility criteria under Minn. Stat. § 563.01, subd. 3(b) or becomes able to pay a higher amount than previously ordered, the Court may order reimbursement of all or a portion of the fees, costs, and security for costs.
5. If funds are recovered by either settlement or judgment in this action, the costs deferred and expenses directed by the Court to be paid in this order shall be included in such settlement or judgment and shall be paid directly to the Court Administrator by the opposing party.
6. This order expires one year from the date of this order, unless otherwise amended or altered by the court. The applicant shall reapply if the applicant seeks to proceed in forma pauperis after the one year period.

Recommended by:

_____
Referee of District Court Date

BY THE COURT:

_____
Judge of District Court Date

877

State of Minnesota

District Court

County of

Judicial District:	
Court File Number:	
Case Type:	

Plaintiff / Petitioner

and

Defendant / Respondent

SUBPOENA IN A CIVIL CASE
(COMMAND TO APPEAR)
Minn. R. Civ. Pro. 45

TO:

Name Address

☐ You are commanded to appear as a witness in the district court to give testimony at the place, date, and time specified below.

Place of Testimony	Courtroom
	Date and Time

☐ You are commanded to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

Place of Deposition	Date and Time

☐ You are commanded to produce and permit inspection and copying of the listed documents or objects at the place, date and time specified below (attach list of documents or objects if necessary):

Place	Date and Time

☐ You are commanded to permit inspection of the following premises at the date and time specified below.

Premises	Date and Time

Person requesting subpoena: _____

Telephone no: _____

879

WARNING: FAILURE TO OBEY A SUBPOENA WITHOUT BEING EXCUSED IS A CONTEMPT OF COURT

_____ Signature of Court Administrator / Plaintiff's Attorney / Defendant's Attorney (Circle)	_____ Date
_____ _____ Name, Address and Phone Number (if issued by Attorney as an Officer of the Court)	SEAL (if issued by Court Administration)

IMPORTANT: Both pages of this document must be served on the person receiving the summons.

RETURN OF SERVICE

State of Minnesota)
) SS
County of _____)

I hereby certify and return that on _____ I served a copy of this subpoena upon the person named thereon. Service was made by:

☐ personally handing to and leaving with him or her a true and correct copy; or

☐ leaving a true and correct copy at his or her usual place of residence

_____
Address

with _____ a person of suitable age and
Name of Person
discretion.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

_____
Date

_____
Signature
Printed Name: _____

Title, if any: _____

Address: _____

City/State/Zip: _____

Telephone: _____

E-mail address: _____

881

Rule 45, Minnesota Rules of Civil Procedure, provides that:

- A subpoena may be served by any person who is not a party and is not less than 18 years of age.
- Service of a subpoena shall be made by delivering a copy to the person named in the subpoena or by leaving a copy at the person's usual place of abode with some person of suitable age and discretion who resides there.
- A witness who is not a party to the action or an employee of a party (except a person appointed pursuant to Rule 30.02(f)) and who is required to give testimony or produce documents relating to a profession, business, or trade, or relating to knowledge, information, or facts obtained as a result of activities in such profession, business, or trade, is entitled to reasonable compensation for the time and expense involved in preparing for and giving such testimony or producing such documents and is entitled to have the amount of those expenses determined prior to complying with the subpoena.
- A person is not obligated to attend as a witness in a civil case unless one day's attendance and travel fees are paid or tendered in advance (see fees below), unless the subpoena is issued on behalf of the state of Minnesota, or the state's officer or agent.

Fees to be paid to witnesses shall be as follows (Minn. Stat. § 357.22):

- For attending in any action or proceeding in any court of record or before any officer, person or board authorized the take examination of witnesses, $20 for each day.
- For roundtrip travel estimated from the witness's residence at 28 cents per mile. If a witness lives outside the state, travel costs shall be estimated from the boundary line of the state where the witness crossed into Minnesota at 28 cents per mile. (Additional fees may be available for out of state witnesses).

In any proceeding where a parent or guardian attends the proceeding with a minor witness and the parent or guardian is not a witness, one parent or guardian shall be compensated in those cases where witness compensation is mandatory under Minn. State. § 357.22, and may be compensated when compensation is discretionary under those sections. No more than a combined total of $60 may be awarded to the parent or guardian and minor witness. Minn. Stat. § 357.242.

Financial Disclosure Form

Minn. Stat. §§ 491A.02, subd. 9, 550.011

The purpose of this Financial Disclosure Form is to tell the JUDGMENT CREDITOR what money and property you have which may be used to pay the judgment the creditor obtained against you in the lawsuit. It also allows you to tell the creditor that some or all of your property and money is "exempt," which means that it cannot be taken to pay the judgment. **You must answer all questions on this form.**

If you need more space, continue your answer on the back of the form or attach additional sheets if necessary. If you have questions about this form, you may contact your local court administrator, call the **Statewide Self-Help Center at 651-435-6535**, or contact an attorney.

WARNING: IF YOU CLAIM AN EXEMPTION IN BAD FAITH, OR IF THE JUDGMENT CREDITOR WRONGLY OBJECTS TO AN EXEMPTION IN BAD FAITH, THE COURT MAY ORDER THE PERSON WHO ACTED IN BAD FAITH TO PAY COSTS, ACTUAL DAMAGES, ATTORNEY FEES, AND AN EXTRA $100.

1. JUDGMENT DEBTOR Name

_____

2. ☐ Individual ☐ Partnership ☐ Corporation ☐ Other _____

3. Street Address _____ 4. City _____ 5. State _____ 6. Zip _____

7. Date of Birth _____ 8. If Married, Spouse's Full Name _____ 9. Home Telephone Number _____

10. Employer or Business _____ 11. Work Telephone Number _____

12. Street Address _____ 13. City _____ 14. State _____ 15. Zip _____

16. What are your total wages, salary, or commissions per pay period? _____

17. How often are you paid?
☐ Daily ☐ Weekly ☐ Twice a month ☐ Monthly ☐ Other _____

18. Do you have income from any other source? ☐ Yes ☐ No

If yes, give the source and amount of the income:

_____

19. By answering this question, you will be able to claim the exemptions you have for wages and income. **The first exemption is already checked for you, check all others that apply:**

☒ I claim that 75% of my disposable (after-tax) earnings or 40 times the federal minimum wage (now$290 for 40-hour week) is exempt (whichever is greater), unless the judgment is for child support.

☐ If the Judgment is for child support, I claim that the following percentage of my after-tax earnings is exempt:

- ☐ 50% (I am supporting a spouse and/or dependent child, and the child support judgment is 12 weeks old or less.)
- ☐ 55% (I am supporting a spouse and/or dependent child, and the child support judgment is more than 12 weeks old.)
- ☐ 60% (I am not supporting a spouse and/or dependent child, and the child support judgment is 12 weeks old or less.)
- ☐ 65% (I am not supporting a spouse and/or dependent child, and the child support judgment is more than 12 weeks old.)

☐ I am presently receiving or have received relief based on need in the past 6 months so all my wages are exempt.

Type of relief you receive: _____ .

☐ I have been an inmate in a correctional institution within the past 6 months so all my wages are exempt.

Name of institution and release date: _____ .

☐ My income is exempt because it is: ☐ Unemployment Comp. ☐ Worker's Comp.

☐ V.A. Benefits ☐ Social Security ☐ Accident or Disability Benefits

☐ Retirement Benefits ☐ Other _____
(Specify)

20. Do you have a checking or savings account? (This includes any account whether you have it by yourself or with someone else, or whether it is in your name or any other name)

☐ Yes ☐ No

If yes, provide the following information for each:

Name and address of bank, Credit Union, or Financial Institution	Type of Account	Account Number

21. If you claimed an exemption for your wages or income, you may claim an exemption when your money is deposited in a bank. Claim your exemptions by checking the boxes that apply to you:

☐ The money in my account is from exempt wages, income, or benefits

☐ The money in my account is from the exempt sale of my homestead within the past year.

☐ The money in my account is from exempt life insurance received on the death of a spouse or parent.

☐ The money in my account is from other exempt property _____
(specify)

22. Do you have any stocks, bonds, securities, certificates of deposit, mutual funds, money market account, etc.? (This includes any, whether owned by you alone or with any other person, or whether it is in your name or any other name.) ☐ Yes ☐ No

If yes, itemize these and the location of each.

_____

23. Do you own your home? ☐ Yes ☐ No Your homestead (house owned and occupied by you) is exempt up to a value of $420,000 or if used primarily for agricultural purposes, $1,050,000.

Do you own any other houses, land, or real estate? ☐ Yes ☐ No

For each, give the following:

Location	Estimated Value	Amount Owed (if any)	To Whom

24. Do you own any motor vehicles, motorcycles, boats, snowmobiles, trailers, etc.? ☐ Yes ☐ No

For each, provide the following:

Make	Model	Year	Lic. Plate No.	Market Value	Amount Owed (if any)

One motor vehicle worth up to $4,800 (or $48,000 if the vehicle has been modified at a cost of at least $3,600 to accommodate a physical disability making a disabled person eligible for a parking permit under Minn. Stat. § 169.345) after subtracting what you owe is exempt.

Which vehicle do you want to claim as exempt? _____

25. Do you own any of the follow property?

Cash or travelers checks	☐ Yes ☐ No	Farm supplies, implements, livestock, grain worth more than $13,000	☐ Yes ☐ No
Household goods, furnishings, and personal effects that are worth more than $10,800 total	☐ Yes ☐ No	Business equipment, tools, machinery worth more than $12,000 total	☐ Yes ☐ No
Jewelry	☐ Yes ☐ No	Inventory	☐ Yes ☐ No
Coins or stamp collections	☐ Yes ☐ No	Accounts receivable/claims	☐ Yes ☐ No
Firearms/Guns	☐ Yes ☐ No	Health Savings Account not exceeding a present value of $25,000	☐ Yes ☐ No
Life insurance policy with a cash (surrender) value more than $9,600	☐ Yes ☐ No	Medical Savings Account not exceeding a present value of $25,000	☐ Yes ☐ No
Any property that you are selling on a contract for deed	☐ Yes ☐ No	Any other property (specify)	☐ Yes ☐ No
Are you the owner or partner in any business not already listed?	☐ Yes ☐ No		

If you answered yes to any item in question 25, provide the following information:

Description and location of property (if not at residence)	Estimated Value	Amount Owed (if any)	To Whom

If you need additional space to answer the questions, continue your answers here. Indicate the question number you are answering. Attach additional sheets if necessary.

The above information is true and correct to the best of my knowledge.

Dated: _____ _____
Signature

NOTICE: FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM TO THE JUDGMENT CREDITOR WITHIN 10 DAYS MAY RESULT IN A CITATION FOR CIVIL CONTEMPT OF COURT.

State of Minnesota

County

District Court

Judicial District | Case No.

Plaintiff

Defendant

Request for Order for Disclosure

Minn. Stat. § 491A.02, subd. 9 and § 550.011

TO: The Court Administrator Concerning:

Judgment Debtor's Name

Address

City/State Zip

The Judgment Creditor states that:

1. The Judgment Creditor has won a Judgment in this lawsuit against the Judgment Debtor.
2. The case began in District Court and the Court Administrator docketed the judgment more than thirty (30) days ago OR the case began in Conciliation Court and the Court Administrator has docketed the judgment,
3. The Judgment Debtor has not paid all of the money which is owed to the Judgment Creditor, and
4. The Judgment Creditor and the Judgment Debtor have not agreed to some other way to settle the debt.

The Judgment Creditor requests that the Court order the Judgment Debtor to fill out a Financial Disclosure form, and mail it to the Judgment Creditor at the address shown below.

The statements made in this request are true and correct to the best of my knowledge.

Date:

Judgment Creditor's Authorized signature and title

Print Judgment Creditor's Name

Address

City/State Zip

Telephone

E-mail address

SEE THE SUMMARY OF EXEMPT PROPERTY FORM FOR IMPORTANT INFORMATION

889

State of Minnesota **District Court**

County of:	Judicial District: _____ Court File Number: _____ Case Type: Civil

_____

_____

_____
Plaintiff (first, middle, last)

vs.

_____

_____

_____
Defendant (first, middle, last)

Affidavit in Support of Order to Show Cause
(Minn. Stat. §588.04)

Statement of Facts

1. My name is _____ and
I am the ☐ **Judgment Creditor** ☐ **Judgment Creditor's Attorney** in this matter.

2. Regarding the following Judgment Debor:
Check one box:

☐ The **Judgment Creditor** filed a *Request for Order for Disclosure* and the Court issued an *Order for Disclosure* was issued on _____ .

OR

☐ The **Judgment Creditor's Attorney** mailed a *Demand for Disclosure* to the Judgment Debtor as follows:

Date: _____

Address: _____

City, State, Zip: _____

3. More than 10 days have gone by, plus time allowed for mailing, and if a *Demand for Disclosure* was mailed, it has not been returned as undeliverable.

4. The **Judgment Debtor** has not provided the information requested by the *Order or Demand for Disclosure*.

5. The judgment has not been satisfied.

Request

I ask the Court for an Order directing _____ the **Judgment Debtor** to appear and show cause, if any, why the Court should not find the **Judgment Debtor** in civil contempt for intentionally failing to obey the *Order / Demand for Disclosure*.

I declare under penalty of perjury that everything that I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____

_____
County and State where signed

_____
Signature

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

E-mail address: _____

For Attorneys Only:

Attorney Reg. # _____

Firm Name: _____

State of Minnesota

District Court

County

Judicial District:	
Court File Number:	
Case Type:	Civil

_____

_____

_____

Plaintiff

vs.

_____

_____

_____

Defendant

DEMAND FOR DISCLOSURE

(Minn. Stat. § 491A.02, subd. 9; Minn. Stat. § 550.011)

THIS IS AN OFFICIAL DEMAND ISSUED AS AN OFFICER OF THE COURT THAT REQUIRES YOU TO PROVIDE CERTAIN INFORMATION. READ IT CAREFULLY.

TO: _____

Judgment Debtor

Within 10 days after service of this Demand, you must:

1. Fill out the attached Financial Disclosure Form describing your personal finances.

2. Mail the Financial Disclosure form to the **Judgment Creditor's Attorney** at the address stated in the box below.

(NOTE: Certified mail is required unless the case began in conciliation court. Minn. Stat. § 550.011)

WARNING: If you do not complete and mail the disclosure form to the Judgment Creditor's Attorney within 10 days AFTER SERVICE OF THIS DEMAND, the Judgment Creditor may ask the Court to hold you in "civil contempt of court". If the Court decides that you intentionally disobeyed this Demand, the Court may fine you, put you in jail, or both.

This Demand was issued because:

- The **Judgment Creditor** has won a Judgment in the lawsuit against you;
- The case began in District Court and the Court Administrator docketed the judgment more than thirty (30) days ago OR the case began in Conciliation Court and the Court Administrator has docketed the judgment;

895

- You have not paid the **Judgment Creditor** all of the money which the Judgment says you owe; and
- You and the **Judgment Creditor** have not agreed to some other way to settle the debt you owe.

_____
Date

_____
Judgment Creditor's Attorney

_____
Attorney Registration Number
This Demand shall only be signed by a Licensed attorney

Mail the Financial Disclosure Form to:

_____
Judgment Creditor's Attorney's Name

_____
Address

_____
City / State Zip

_____
Telephone

_____
E-mail address

See Summary of Exempt Property Form

897

State of Minnesota **District Court**

County

Judicial District:	
Court File Number:	
Case Type:	Civil

_____
_____
_____
Plaintiff(s)

vs.

_____
_____
_____
Defendant(s)

Satisfaction of Judgment (Minn. Stat. §548.15)

State of Minnesota)
) SS
County of _____)

Partial Satisfaction

I, _____, the undersigned judgment creditor hereby certify that judgment in the amount of $_____ which was entered in this Court on _____ in favor of _____ _____ and against _____ is partially satisfied in the following amounts:

Date Collected	Total Collected	Credit/Costs	Credit/Interest	Credit/Principal

and the Court Administrator shall record the same.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____

_____
Signature

Name: _____

Address: _____

City/State/Zip: _____

Telephone: (_____) _____

E-mail address: _____

899

State of Minnesota)
) SS
County of _____)

Full Satisfaction

I, _____, the undersigned judgment creditor hereby certify that judgment in the amount of $_____ which was entered in this Court on _____, in favor of _____ and against _____ is fully satisfied and the Court Administrator shall record the same.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____

_____
Signature

Name: _____

Address: _____

City/State/Zip: _____

Telephone: (_____) _____

E-mail address: _____

901

State of Minnesota

County

District Court

Judicial District:	
Court File Number:	
Case Type:	Civil

_____
Plaintiff

vs

_____
Defendant

Motion and Affidavit Requesting Satisfaction of Judgment (Minn. Stat. §548.15, Subd.1 (4)

NOTICE OF MOTION AND MOTION

TO: _____

Take Notice that on _____ at _____.m. at the _____
(Date) (Time)

_____, _____,
(Address) (City)
Minnesota, before the Honorable _____,

STATE OF MINNESOTA)
) SS
COUNTY OF _____)
(County where Affidavit signed)

AFFIDAVIT

I, _____, state:

1. I am the Plaintiff/Defendant in this action.

2. That on _____ a judgment in the amount of $ _____ was entered against me and in favor of _____. The judgment was docketed on _____.

3. On _____ I paid the judgment in full. (Proof of payment must be attached, i.e. cancelled check, etc.)

4. ☐ I am unable to locate the creditor to obtain Satisfaction of Judgment. (Proof of payment must be attached, i.e. cancelled check, etc.)
☐ I did the following to try and locate the creditor_____

903

☐ Creditor refuses to complete a Satisfaction Form for filing.

Based on the above information, I request the Court to direct the Court Administrator to enter a satisfaction of judgment.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____

_____
Signature

Name: _____

Address: _____

City/State/Zip: _____

Telephone: (___) _____

E-mail address: _____

Last updated: August 10, 2017

City/Agency	Attorney	Address	Phone	Fax	Law Enforcement Agency
Arden Hills					Ramsey County Sheriff's Office Phone: 651-266-9333 See last page for additional contact information.
Falcon Heights					Saint Anthony Police Department 3301 Silver Lake Road Saint Anthony, MN 55418 Phone: 612-782-3350 Fax: 612-782-3390
Gem Lake	Patrick Kelly	Kelly & Lemmons PA 223 Little Canada Road Little Canada, MN 55117	651-224-3781		Ramsey County Sheriff's Office Phone: 651-266-9333 See last page for additional contact information.
Lauderdale					Saint Anthony Police Department 3301 Silver Lake Road Saint Anthony, MN 55418 Phone: 612-782-3350 Fax: 612-782-3390
Little Canada	Patrick Kelly	Kelly & Lemmons PA 223 Little Canada Road Little Canada, MN 55117	651-224-3781		Ramsey County Sheriff's Office Phone: 651-266-9333 See last page for additional contact information.
Maplewood	Ronald H. Betty Prosecutor: Kelly & Lemmons	Kennedy and Graver 470 U.S. Bank Plaza 200 South 6th Street Minneapolis, MN 55402 Kelly and Lemmons, P.A. 223 Little Canada Rd East Suite 200 Little Canada, MN 55117	 651-224-3781		Maplewood Police Department 1830 East County Road B Maplewood, MN 55109 651-249-2600 (admin./records) 651-249-2699 (fax)
Moundsview					Moundsview Police Department 2401 Moundsview Blvd

For updates to the directory see
Minnesota Attorney's/Secretary's Handbook
Ref. KFM 5477 .M5

					Moundsview, MN 55112 612-717-4070
New Brighton					New Brighton Police Department 785 Old Highway 8 New Brighton, MN 55112 651-288-4100
North Oaks	Civil: David Manuson Prosecutor: Kelly Lemmons	No contact information listed. Kelly & Lemmons PA 223 Little Canada Road Little Canada, MN 55117	 651-224-3781		Ramsey County Sheriff's Office Phone: 651-266-9333 See last page for additional contact information.
North St. Paul					North St. Paul Police Department 2400 Margaret Street North St. Paul, MN 55109 Phone: 651-747-2406 Fax: 651-747-2500
Roseville					Roseville Police Department 2660 Civic Center Drive Roseville, MN 551113 Phone: 651-792-7008 Fax: 651-792-7200
City of Saint Paul	Samuel J. Clark	St. Paul City Attorney's Office 400 City Hall 15 W Kellogg Blvd. St. Paul, MN 55102	651-266-8710	651-298-5619	St. Paul Police Department 367 Grove Street St. Paul, MN 55101 651-291-1111
Shoreview	Patrick Kelley	Kelly & Lemmons PA 223 Little Canada Road Little Canada, MN 55117	651-224-3781		Ramsey County Sheriff's Office Phone: 651-266-9333 See last page for additional contact information.
State Fair					State Fair Police Department 651-288-4500
Vadnais Heights					Ramsey County Sheriff's Office Phone: 651-266-9333

					See last page for additional contact information.
White Bear Lake	Roger Jenson Prosecutor: Robb Olson	Miller O'Brien Jenson 120 South 6th Street #2400 Minneapolis, MN 55402 No address listed	612-334-9008 651-426-1533		White Bear Lake Police Dept. 4701 Highway 61 White Bear Lake, MN 55110 651-429-8550 (records/admin.) 651-429-8501 (fax)
White Bear Township					Ramsey County Sheriff's Office Phone: 651-266-9333 See last page for additional contact information.
Ramsey County Sheriff's Office	County Attorney: John J. Choi Sheriff: Jack Serier 651-266-9308	Ramsey County Attorney Attn: John J. Choi Ramsey County Government Center West Room 315 15 West Kellogg Blvd. St. Paul, MN 55102	651-266-3222		Ramsey County Sheriff's Office Law Enforcement Center 425 Grove Street St. Paul, MN 55101 Phone: 651-266-9333
Minnesota State Patrol					445 Minnesota Street Suite 130 St. Paul, MN 55101 (651)201-7100 (phone) (651)296-5937 (fax)
Forfeitures					

MINNESOTA JUDICIAL BRANCH

Face coverings required in court facilities.
The response to COVID-19 has impacted access to courthouses and may change the way cases are handled.
Learn more »

Back to Previous Page

Ramsey County Vehicle Seizure and Forfeiture DWI Arrests

Before you begin this process, you must determine the value of the vehicle or property that has been seized. The value of the property or vehicle will determine where you file your claim either concilaition court or district court and how much you will pay for the **filing fee**. If the vehicle or property is worth $15,000.00 or less you will file your claim in Conciliation Court. If the vehicle or property is worth more than $15,000.00, you will file your claim in District Court. Forms and instructions for both courts are available below.

Instructions for Conciliation Court Judicial Review of Motor Vehicle Forfeiture for Alcohol Related Offenses - Vehicle/Property $15,000 or less

Citation: Minn. Stat. §169A.63, subd. 8 and 9

Use this form if:

- You have received a Notice of Seizure and Intent to Forfeit.
- **You want your vehicle or property returned.**
- **Your vehicle or property is worth $15,000 or less.**

Within 30 days after you are served with the Notice of Seizure and Intent to Forfeit:

1. You must file the claim form for Judicial Determination in the county where the seizure took place. For seizures occurring in Ramsey County, claim forms are available at the Conciliation Court Office located in room 650, Ramsey County Courthouse, 15 West Kellogg Blvd., Saint Paul, Minnesota 55102.
2. The Conciliation Court claim form must be filed in the county where the seizure took place. The location of the seizure will be listed on the Notice of Seizure and Intent to Forfeit that was served upon you by the prosecuting authority or the law enforcement agency of the city or municipality where the seizure took place. Bring your copy of the Notice of Seizure and Intent to Forfeit with you to the Conciliation Court Office. You will need to attach this Notice or a copy of it to your claim form.
3. When you have completed the demand claim form, you must file it with Conciliation Court. You will be required to pay the current filing fee of $75.00 unless: the vehicle is worth less than $500.00 or you qualify for a waiver of the fee due to financial circumstances. If you wish to apply for a waiver of the fee, you must bring proof of your income to conciliation court when you file your demand claim form.

Filling Out the Demand Claim Form for a Judicial Review

1. The person filing the demand is the plaintiff/claimant (your name). The defendant is a description of the seized vehicle/property. Example: John Smith vs. 1992 Cherokee or John Smith vs. Misc. tools/red tool box

You must list this information in the body of the claim form:

- the make
- model
- license plate number
- VIN number
- Other types of property must be fully described
- The demand must specifically state the grounds on which the plaintiff alleges the vehicle was improperly seized and the plaintiff's interest in the seized vehicle.

The Conciliation Court staff will notify you of the hearing date, time and place.

Serving the Deman Claim Form

You must give the prosecuting authority and the law enforcement agency who seized the vehicle notice that you are going to court and you must give them notice

within 30 days from the date that you received the Notice of Seizure and Intent to Forfeit.

If the property value is less than $2,500.00, the Conciliation Court Office will serve the demand claim form by first class mail on the prosecuting authority and the law enforcement agency of the city or municipality where the seizure took place.

If the property is valued between $2,501.00 and $7,500.00, the demand claim form must be served on the prosecuting authority and the law enforcement agency of the city or municipality where the seizure took place, either by certified mail (as per MN Stat, 491A.01 subd. 3 (4)(b)) or personal service. The place where the seizure took place will be listed on the Notice of Seizure and Intent to Forfeit. Personal service must be made by a disinterested third party who has no interest in the case or its' outcome and is at least 18 years of age. **The plaintiff cannot do personal service.**

A list of prosecutors and law enforcement agencies is available from the Conciliation Court Office.

If you have been charged with a felony DWI, you must serve the County Attorney located at the Ramsey County Attorney's Office, Civil Forfeiture Unit, Room 315, Ramsey County Government Center West, 50 West Kellogg Blvd., Saint Paul, Minnesota 55102. You must also serve the law enforcement agency that is listed on the Notice of Seizure and Intent to Forfeit.

The person who gives the prosecuting authority and the law enforcement agency a copy of the demand claim form must fill out a form called an Affidavit of Service and file it with the Conciliation Court Office. This must be done within 30 days from the date that you received the Notice of Seizure and Intent to Forfeit. The Affidavit of Service form is available from conciliation court.

If the plaintiff/claimant prevails, the filing fee must be reimbursed to the person who filed the demand. Reimbursement shall be paid from other forfeiture proceeds of the law enforcement agency or prosecuting authority pursuant to **Minn. Stat. §169A.63, subd. 9(h)**.

This procedure is governed by the **Rules of Minnesota Civil Procedure** and **Minn. Stat. §169A.63, subd. 8**. Court personnel cannot give legal advice. The facts of each case are unique and you may need legal assistance.

Conciliation Court form for Judicial Review of property/vehicle seizure

Forfeiture and Impoundment Forms »

Instructions for Judicial Review of Motor Vehicle Forfeiture Alcohol Related Offenses when Vehicle/Property are worth more than $15,000

Use this form if:

- You have been served with a Notice of Seizure and Intent to Forfeit.
- **You want your vehicle or property returned.**
- **The vehicle/property is worth more than $15,000**

Within 30 days after you are served with the Notice of Seizure and Intent to Forfeit:
You must file the **Demand for a Judicial Determination form** in the district court of the county where the seizure took place. For seizures that took place in Ramsey County, Demand forms are available from the Civil Division room 600, Ramsey County Courthouse, 15 West Kellogg Blvd., Saint Paul, Minnesota 55102.

You must have the Demand form served on the prosecuting authority of the location where the seizure took place and the agency that initiated the seizure (usually law enforcement) within 30 days after you are served with the Notice of Seizure and Intent to Forfeit.

Filling Out the Demand Claim Form - Bring your copy of the Notice of Seizure and Intent to Forfeit

1. The person filing the demand is the plaintiff/claimant (your name).
2. The defendant is a description of the seized vehicle. (Example: John Smith vs. 1992 Cherokee)

You must list this information in the body of the claim form:

- the make (Ford, Chevrolet, etc.),
- model (F10 pickup, Malibu, Corsica, etc.),
- license plate number,
- VIN number.

- The demand must specifically state the grounds on which the plaintiff alleges the vehicle was improperly seized and the plaintiff's interest in the seized vehicle.

3. The original Demand form must be filed with the district court administrator in the county where the seizure took place within 30 days after you received the Notice of Seizure and Intent to Forfeit. The date that the Notice was served upon you can be found at the bottom of the copy of the Notice that you received.
4. You will be notified of the date, time and place of the hearing by the District Court.

Serving the Demand Form

The prosecuting authority of the location where the seizure took place and the appropriate agency that initiated the seizure (usually law enforcement) must receive notice of the hearing within 30 days from the date that you received the Notice of Seizure and Intent to Forfeit. You must have a copy of the Demand form given to both the prosecuting authority of the location where the seizure took place and the appropriate agency that initiated the seizure (usually law enforcement).

1. The Notice of Seizure and Intent to Forfeit you will tell you the location where the seizure took place. You must serve the prosecuting authority of that location. A list of city prosecutors is available from the Civil Division, Room 600, Ramsey County Courthouse, 15 West Kellogg Blvd., Saint Paul, Minnesota 55102. You will also find the name of the agency that initiated the seizure on the Notice of Seizure and Intent to Forfeit. A list of law enforcement agencies is also available from the Civil Division.
2. The plaintiff cannot serve the prosecuting authority or the agency that initiated the seizure. The Demand form must be served by a disinterested third party,that is someone who has no interest in the case or its' outcome and is over the age of18. He/she must personally give or serve the prosecuting authority and the agency that initiated the seizure a copy of the Demand form.
3. The person who gives the prosecuting authority and the agency that initiated the seizure a copy of the Demand form must fill out a form called an Affidavit of Service and file it with the court administrator. This must also be done within 30 days from the date that you received the Notice of Seizure and Intent to Forfeit. The Affidavit of Service form is available from the Civil Division, Room 600.

4. When you file the Demand form, you must pay the current civil filing fee unless you qualify to have the fee waived. In Forma Pauperis (Fee Waiver) Forms are available at the Civil Division, room 600, Ramsey County Courthouse, 15 West Kellogg Blvd., Saint Paul, Minnesota 55102. You must bring proof of your income with you when you apply for a waiver.

If you have been charged with a felony DWI, you must serve the County Attorney located at the Ramsey County Attorney's Office, Civil Forfeiture Unit, Room 315, Ramsey County Government Center West, 50 West Kellogg Blvd., Saint Paul, Minnesota 55102. You must also serve the law enforcement agency that is listed on the Notice of Seizure and Intent to Forfeit.

The person who gives the prosecuting authority and the law enforcement agency a copy of the demand claim form must fill out a form called an Affidavit of Service and file it with the Conciliation Court Office. This must be done within 30 days from the date that you received the Notice of Seizure and Intent to Forfeit. The Affidavit of Service form is available from Room 600, District Court Civil Division.

If the plaintiff/claimant prevails, the filing fee must be reimbursed to the person who filed the demand. Reimbursement shall be paid from other forfeiture proceeds of the law enforcement agency or prosecuting authority pursuant to **Minn. Stat. §169A.63, subd. 9(h)**.

This procedure is governed by the **Rules of Minnesota Civil Procedure** and **Minn. Stat. §169A.63, subd. 8**. Court personnel cannot give legal advice. The facts of each case are unique and you may need legal assistance.

Demand Claim Form for Property/Vehicle worth more than $7,500.00

Forfeiture and Impoundment Forms »

169A.63 VEHICLE FORFEITURE.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them.

(b) "Appropriate agency" means a law enforcement agency that has the authority to make an arrest for a violation of a designated offense or to require a test under section 169A.51 (chemical tests for intoxication).

(c) "Claimant" means an owner of a motor vehicle or a person claiming a leasehold or security interest in a motor vehicle.

(d) "Designated license revocation" includes a license revocation under section 169A.52 (license revocation for test failure or refusal) or 171.177 (revocation; search warrant) or a license disqualification under section 171.165 (commercial driver's license disqualification) resulting from a violation of section 169A.52 or 171.177; within ten years of the first of two or more qualified prior impaired driving incidents.

(e) "Designated offense" includes:

(1) a violation of section 169A.20 (driving while impaired) under the circumstances described in section 169A.24 (first-degree driving while impaired), or 169A.25 (second-degree driving while impaired); or

(2) a violation of section 169A.20 or an ordinance in conformity with it:

(i) by a person whose driver's license or driving privileges have been canceled as inimical to public safety under section 171.04, subdivision 1, clause (10), and not reinstated; or

(ii) by a person who is subject to a restriction on the person's driver's license under section 171.09 (commissioner's license restrictions), which provides that the person may not use or consume any amount of alcohol or a controlled substance.

(f) "Family or household member" means:

(1) a parent, stepparent, or guardian;

(2) any of the following persons related by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or

(3) persons residing together or persons who regularly associate and communicate with one another outside of a workplace setting.

(g) "Motor vehicle" and "vehicle" do not include a vehicle which is stolen or taken in violation of the law.

(h) "Owner" means a person legally entitled to possession, use, and control of a motor vehicle, including a lessee of a motor vehicle if the lease agreement has a term of 180 days or more. There is a rebuttable presumption that a person registered as the owner of a motor vehicle according to the records of the Department of Public Safety is the legal owner. For purposes of this section, if a motor vehicle is owned jointly by two or more people, each owner's interest extends to the whole of the vehicle and is not subject to apportionment.

(i) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred who is responsible for prosecuting violations of a designated offense or a designee. If a state agency initiated

the forfeiture, and the attorney responsible for prosecuting the designated offense declines to pursue forfeiture, the Attorney General's Office or its designee may initiate forfeiture under this section.

(j) "Security interest" means a bona fide security interest perfected according to section 168A.17, subdivision 2, based on a loan or other financing that, if a vehicle is required to be registered under chapter 168, is listed on the vehicle's title.

Subd. 2. **Seizure.** (a) A motor vehicle subject to forfeiture under this section may be seized by the appropriate agency upon process issued by any court having jurisdiction over the vehicle.

(b) Property may be seized without process if:

(1) the seizure is incident to a lawful arrest or a lawful search;

(2) the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the vehicle. If property is seized without process under this clause, the prosecuting authority must institute a forfeiture action under this section as soon as is reasonably possible by serving a notice of seizure and intent to forfeit at the address of the owner as listed in the records of the Department of Public Safety.

(c) When a motor vehicle is seized, the officer must provide a receipt to the person found in possession of the motor vehicle; or in the absence of any person, the officer must leave a receipt in the place where the motor vehicle was found, if reasonably possible.

Subd. 3. **Right to possession vests immediately; custody.** All right, title, and interest in a vehicle subject to forfeiture under this section vests in the appropriate agency upon commission of the conduct resulting in the designated offense or designated license revocation giving rise to the forfeiture. Any vehicle seized under this section is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When a vehicle is seized under this section, the appropriate agency shall use reasonable diligence to secure the property and prevent waste and may do any of the following:

(1) place the vehicle under seal;

(2) remove the vehicle to a place designated by it; and

(3) place a disabling device on the vehicle.

Subd. 4. **Bond by owner for possession.** If the owner of a vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized vehicle. On posting the security or bond, the seized vehicle may be returned to the owner only if a disabling device is attached to the vehicle. The forfeiture action must proceed against the security as if it were the seized vehicle. This subdivision does not apply to a vehicle being held for investigatory purposes.

Subd. 5. **Evidence.** Certified copies of court records and motor vehicle and driver's license records concerning qualified prior impaired driving incidents are admissible as substantive evidence where necessary to prove the commission of a designated offense or the occurrence of a designated license revocation.

Subd. 5a. **Petition for remission or mitigation.** Prior to the entry of a court order disposing with the forfeiture action, any person who has an interest in forfeited property may file with the prosecuting authority a petition for remission or mitigation of the forfeiture. The prosecuting authority may remit or mitigate the forfeiture upon terms and conditions the prosecuting authority deems reasonable if the prosecuting authority finds that: (1) the forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law; or (2) extenuating circumstances justify the remission or mitigation of the forfeiture.

Subd. 6. **Vehicle subject to forfeiture.** (a) A motor vehicle is subject to forfeiture under this section if it was used in the commission of a designated offense or was used in conduct resulting in a designated license revocation.

(b) Motorboats subject to seizure and forfeiture under this section also include their trailers.

Subd. 7. **Limitations on vehicle forfeiture.** (a) A vehicle is presumed subject to forfeiture under this section if:

(1) the driver is convicted of the designated offense upon which the forfeiture is based;

(2) the driver fails to appear for a scheduled court appearance with respect to the designated offense charged and fails to voluntarily surrender within 48 hours after the time required for appearance; or

(3) the driver's conduct results in a designated license revocation and the driver fails to seek judicial review of the revocation in a timely manner as required by section 169A.53, subdivision 2, (petition for judicial review), or the license revocation is judicially reviewed and sustained under section 169A.53, subdivision 2.

(b) A vehicle encumbered by a security interest perfected according to section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject to the interest of the secured party or lessor unless the party or lessor had knowledge of or consented to the act upon which the forfeiture is based. However, when the proceeds of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale to the secured party after deducting the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is conducted in a commercially reasonable manner consistent with the provisions of section 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in excess of the sale proceeds. The validity and amount of a nonperfected security interest must be established by its holder by clear and convincing evidence.

(c) Notwithstanding paragraph (b), the secured party's or lessor's interest in a vehicle is not subject to forfeiture based solely on the secured party's or lessor's knowledge of the act or omission upon which the forfeiture is based if the secured party or lessor demonstrates by clear and convincing evidence that the party or lessor took reasonable steps to terminate use of the vehicle by the offender.

(d) A motor vehicle is not subject to forfeiture under this section if any of its owners who petition the court can demonstrate by clear and convincing evidence that the petitioning owner did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law or that the petitioning owner took reasonable steps to prevent use of the vehicle by the offender. If the offender is a family or household member of any of the owners who petition the court and has three or more prior impaired driving convictions, the petitioning owner is presumed to know of any vehicle use by the offender that is contrary to law. "Vehicle use contrary to law" includes, but is not limited to, violations of the following statutes:

(1) section 171.24 (violations; driving without valid license);

(2) section 169.791 (criminal penalty for failure to produce proof of insurance);

(3) section 171.09 (driving restrictions; authority, violations);

(4) section 169A.20 (driving while impaired);

(5) section 169A.33 (underage drinking and driving); and

(6) section 169A.35 (open bottle law).

Subd. 8. **Administrative forfeiture procedure.** (a) A motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation is subject to administrative forfeiture under this subdivision.

(b) Within 60 days from when a motor vehicle is seized under subdivision 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Upon motion by the appropriate agency or prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For motor vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English. This requirement does not preclude the appropriate agency from printing the notice in other languages in addition to English.

Substantially the following language must appear conspicuously in the notice:

"WARNING: You will automatically lose the above-described property and the right to be heard in court if you do not file a lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in conciliation court if the property is worth $15,000 or less; otherwise, you must file in district court. You may not have to pay a filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee if your property is worth less than $500."

(d) If notice is not sent in accordance with paragraph (b), and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the agency's

authority to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

(e) Within 60 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture, including the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. The claimant may serve the complaint by any means permitted by court rules. If the value of the seized property is $15,000 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture, as well as on the appropriate agency that initiated the forfeiture, within 60 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than $500, the claimant does not have to pay the conciliation court filing fee.

No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. The prosecuting authority may appear for the appropriate agency. Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

(f) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant, and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized, the claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return of a vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(g) If the claimant makes a timely demand for a judicial determination under this subdivision, the forfeiture proceedings must be conducted as provided under subdivision 9.

Subd. 9. **Judicial forfeiture procedure.** (a) This subdivision governs judicial determinations of the forfeiture of a motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation. An action for forfeiture is a civil in rem action and is independent of any criminal prosecution. All proceedings are governed by the Rules of Civil Procedure.

(b) If no demand for judicial determination of the forfeiture is pending, the prosecuting authority may, in the name of the jurisdiction pursuing the forfeiture, file a separate complaint against the vehicle, describing it, specifying that it was used in the commission of a designated offense or was used in conduct resulting in a designated license revocation, and specifying the time and place of its unlawful use.

(c) The prosecuting authority may file an answer to a properly served demand for judicial determination, including an affirmative counterclaim for forfeiture. The prosecuting authority is not required to file an answer.

(d) A judicial determination under this subdivision must be held at the earliest practicable date, and in any event no later than 180 days following the filing of the demand by the claimant. If a related criminal proceeding is pending, the hearing shall not be held until the conclusion of the criminal proceedings. The district court administrator shall schedule the hearing as soon as practicable after the conclusion of the criminal prosecution. The district court administrator shall establish procedures to ensure efficient compliance with this subdivision. The hearing is to the court without a jury.

(e) There is a presumption that a vehicle seized under this section is subject to forfeiture if the prosecuting authority establishes that the vehicle was used in the commission of a designated offense or designated license revocation. A claimant bears the burden of proving any affirmative defense raised.

(f) If the forfeiture is based on the commission of a designated offense and the person charged with the designated offense appears in court as required and is not convicted of the offense, the court shall order the property returned to the person legally entitled to it upon that person's compliance with the redemption requirements of section 169A.42. If the forfeiture is based on a designated license revocation, and the license revocation is rescinded under section 169A.53, subdivision 3 (judicial review hearing, issues, order, appeal), the court shall order the property returned to the person legally entitled to it upon that person's compliance with the redemption requirements of section 169A.42.

(g) If the lawful ownership of the vehicle used in the commission of a designated offense or used in conduct resulting in a designated license revocation can be determined and the owner makes the demonstration required under subdivision 7, paragraph (d), the vehicle must be returned immediately upon the owner's compliance with the redemption requirements of section 169A.42.

(h) If the court orders the return of a seized vehicle under this subdivision it must order that filing fees be reimbursed to the person who filed the demand for judicial determination. In addition, the court may order sanctions under section 549.211 (sanctions in civil actions). Any reimbursement fees or sanctions must be paid from other forfeiture proceeds of the law enforcement agency and prosecuting authority involved and in the same proportion as distributed under subdivision 10, paragraph (b).

Subd. 10. **Disposition of forfeited vehicle.** (a) If the vehicle is administratively forfeited under subdivision 8, or if the court finds under subdivision 9 that the vehicle is subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

(1) sell the vehicle and distribute the proceeds under paragraph (b); or

(2) keep the vehicle for official use. If the agency keeps a forfeited motor vehicle for official use, it shall make reasonable efforts to ensure that the motor vehicle is available for use by the agency's officers who participate in the drug abuse resistance education program.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

(1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the state or local agency's operating fund or similar fund for use in DWI-related enforcement, training, and education; and

(2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.

(c) If a vehicle is sold under paragraph (a), the appropriate agency shall not sell the vehicle to: (1) an officer or employee of the agency that seized the property or to a person related to the officer or employee by blood or marriage; or (2) the prosecuting authority or any individual working in the same office or a person related to the authority or individual by blood or marriage.

(d) Sales of forfeited vehicles under this section must be conducted in a commercially reasonable manner.

(e) If a vehicle is forfeited administratively under this section and no demand for judicial determination is made, the appropriate agency shall provide the prosecuting authority with a copy of the forfeiture or

evidence receipt, the notice of seizure and intent to forfeit, a statement of probable cause for forfeiture of the property, and a description of the property and its estimated value. Upon review and certification by the prosecuting authority that (1) the appropriate agency provided a receipt in accordance with subdivision 2, paragraph (c), (2) the appropriate agency served notice in accordance with subdivision 8, and (3) probable cause for forfeiture exists based on the officer's statement, the appropriate agency may dispose of the property in any of the ways listed in this subdivision.

Subd. 11. **Sale of forfeited vehicle by secured party.** (a) A financial institution with a valid security interest in or a valid lease covering a forfeited vehicle may choose to dispose of the vehicle under this subdivision, in lieu of the appropriate agency disposing of the vehicle under subdivision 9. A financial institution wishing to dispose of a vehicle under this subdivision shall notify the appropriate agency of its intent, in writing, within 30 days after receiving notice of the seizure and forfeiture. The appropriate agency shall release the vehicle to the financial institution or its agent after the financial institution presents proof of its valid security agreement or of its lease agreement and the financial institution agrees not to sell the vehicle to a member of the violator's household, unless the violator is not convicted of the offense on which the forfeiture is based. The financial institution shall dispose of the vehicle in a commercially reasonable manner as defined in section 336.9-610.

(b) After disposing of the forfeited vehicle, the financial institution shall reimburse the appropriate agency for its seizure, storage, and forfeiture costs. The financial institution may then apply the proceeds of the sale to its storage costs, to its sale expenses, and to satisfy the lien or the lease on the vehicle. If any proceeds remain, the financial institution shall forward the proceeds to the state treasury, which shall credit the appropriate fund as specified in subdivision 9.

Subd. 12. **Reporting.** The appropriate agency and prosecuting authority shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

Subd. 13. **Exception.** (a) If the driver who committed a designated offense or whose conduct resulted in a designated license revocation becomes a program participant in the ignition interlock program under section 171.306 at any time before the motor vehicle is forfeited, the forfeiture proceeding is stayed and the vehicle must be returned.

(b) Notwithstanding paragraph (a), the vehicle whose forfeiture was stayed in paragraph (a) may be seized and the forfeiture action may proceed under this section if the program participant described in paragraph (a):

(1) subsequently operates a motor vehicle:

(i) to commit a violation of section 169A.20 (driving while impaired);

(ii) in a manner that results in a license revocation under section 169A.52 (license revocation for test failure or refusal) or 171.177 (revocation; search warrant) or a license disqualification under section 171.165 (commercial driver's license disqualification) resulting from a violation of section 169A.52 or 171.177;

(iii) after tampering with, circumventing, or bypassing an ignition interlock device; or

(iv) without an ignition interlock device; or

(2) either voluntarily or involuntarily ceases to participate in the program for more than 30 days, or fails to successfully complete it as required by the Department of Public Safety due to:

(i) two or more occasions of the participant's driving privileges being withdrawn for violating the terms of the program, unless the withdrawal is determined to be caused by an error of the department or the interlock provider; or

(ii) violating the terms of the contract with the provider as determined by the provider.

(c) Paragraph (b) applies only if the described conduct occurs before the participant has been restored to full driving privileges or within three years of the original designated offense or designated license revocation, whichever occurs latest.

(d) The requirement in subdivision 2, paragraph (b), that device manufacturers provide a discounted rate to indigent program participants applies also to device installation under this subdivision.

(e) An impound or law enforcement storage lot operator must allow an ignition interlock manufacturer sufficient access to the lot to install an ignition interlock device under this subdivision.

(f) Notwithstanding paragraph (a), an entity in possession of the vehicle is not required to release it until the reasonable costs of the towing, seizure, and storage of the vehicle have been paid by the vehicle owner.

(g) At any time prior to the vehicle being forfeited, the appropriate agency may require that the owner or driver of the vehicle give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized vehicle. If this occurs, any future forfeiture action against the vehicle must instead proceed against the security as if it were the vehicle.

(h) The appropriate agency may require an owner or driver to give security or post bond payable to the agency in an amount equal to the retail value of the vehicle, prior to releasing the vehicle from the impound lot to install an ignition interlock device.

(i) If an event described in paragraph (b) occurs in a jurisdiction other than the one in which the original forfeitable event occurred, and the vehicle is subsequently forfeited, the proceeds shall be divided equally, after payment of seizure, towing, storage, forfeiture, and sale expenses and satisfaction of valid liens against the vehicle, among the appropriate agencies and prosecuting authorities in each jurisdiction.

(j) Upon successful completion of the program, the stayed forfeiture proceeding is terminated or dismissed and any vehicle, security, or bond held by an agency must be returned to the owner of the vehicle.

(k) A claimant of a vehicle for which a forfeiture action was stayed under paragraph (a) but which later proceeds under paragraph (b), may file a demand for judicial forfeiture as provided in subdivision 8, in which case the forfeiture proceedings must be conducted as provided in subdivision 9.

History: *2000 c 466 s 3,4; 2000 c 478 art 1 s 37; art 2 s 7; 2000 c 495 s 46; 2001 c 195 art 2 s 8,9; 1Sp2001 c 8 art 11 s 11; art 12 s 12,13; 1Sp2001 c 9 art 19 s 12; 2002 c 379 art 1 s 113; 2004 c 235 s 3-8; 2005 c 136 art 18 s 7; 1Sp2005 c 1 art 2 s 139; 2010 c 391 s 5; 2012 c 128 s 8-14; 2017 c 12 s 1; 2017 c 83 art 3 s 18; 1Sp2019 c 5 art 6 s 4*

609.5314 ADMINISTRATIVE FORFEITURE OF CERTAIN PROPERTY SEIZED IN CONNECTION WITH A CONTROLLED SUBSTANCES SEIZURE.

Subdivision 1. **Property subject to administrative forfeiture; presumption.** (a) The following are presumed to be subject to administrative forfeiture under this section:

(1) all money, precious metals, and precious stones found in proximity to:

(i) controlled substances;

(ii) forfeitable drug manufacturing or distributing equipment or devices; or

(iii) forfeitable records of manufacture or distribution of controlled substances;

(2) all conveyance devices containing controlled substances with a retail value of $100 or more if possession or sale of the controlled substance would be a felony under chapter 152; and

(3) all firearms, ammunition, and firearm accessories found:

(i) in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;

(ii) on or in proximity to a person from whom a felony amount of controlled substance is seized; or

(iii) on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.

(b) The Department of Corrections Fugitive Apprehension Unit shall not seize items listed in paragraph (a), clauses (2) and (3), for the purposes of forfeiture.

(c) A claimant of the property bears the burden to rebut this presumption.

Subd. 2. **Administrative forfeiture procedure.** (a) Forfeiture of property described in subdivision 1 that does not exceed $50,000 in value is governed by this subdivision. Within 60 days from when seizure occurs, all persons known to have an ownership, possessory, or security interest in seized property must be notified of the seizure and the intent to forfeit the property. In the case of a motor vehicle required to be registered under chapter 168, notice mailed by certified mail to the address shown in Department of Public Safety records is deemed sufficient notice to the registered owner. The notification to a person known to have a security interest in seized property required under this paragraph applies only to motor vehicles required to be registered under chapter 168 and only if the security interest is listed on the vehicle's title. Upon motion by the appropriate agency or the prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown.

(b) Notice may otherwise be given in the manner provided by law for service of a summons in a civil action. The notice must be in writing and contain:

(1) a description of the property seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English. This requirement does not preclude the appropriate agency from printing the notice in other languages in addition to English.

Substantially the following language must appear conspicuously in the notice:

"WARNING: You will automatically lose the above-described property and the right to be heard in court if you do not file a lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in conciliation court if the property is worth $15,000 or less; otherwise, you must file in district court. You may not have to pay a filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee if your property is worth less than $500."

(c) If notice is not sent in accordance with paragraph (a), and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

Subd. 3. **Judicial determination.** (a) Within 60 days following service of a notice of seizure and forfeiture under this section, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority for that county, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. The claimant may serve the complaint on the prosecuting authority by any means permitted by court rules. If the value of the seized property is $15,000 or less, the claimant may file an action in conciliation court for recovery of the seized property. If the value of the seized property is less than $500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. The district court administrator shall schedule the hearing as soon as practicable after, and in any event no later than 90 days following, the conclusion of the criminal prosecution. The proceedings are governed by the Rules of Civil Procedure.

(b) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(c) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under section 609.531, subdivision 6a. The limitations and defenses set forth in section 609.5311, subdivision 3, apply to the judicial determination.

(d) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order sanctions under section 549.211. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

History: *1988 c 665 s 14; 1989 c 290 art 3 s 31; 1991 c 323 s 2,3; 1993 c 326 art 1 s 8,9; 1997 c 213 art 2 s 5; 1999 c 225 s 3,4; 2005 c 136 art 13 s 14; 2010 c 391 s 14,15; 2011 c 76 art 1 s 67; 2012 c 128 s 18,19; 2014 c 201 s 2*

Instructions for Conciliation Court Demand for Judicial Determination of Motor Vehicle Forfeiture for Alcohol Related Offenses Vehicle/Property $15,000 or less

Citation: Minn. Stat. § 169A.63, subd. 8 and 9

Use court form CCT102 if:

- You have received a Notice of Seizure and Intent to Forfeit.
- **You want your vehicle or property returned.**
- **Your vehicle or property is worth $15,000 or less.**

Within 60 days after you are served with the Notice of Seizure and Intent to Forfeit:

1. You must file the Conciliation Court Claim form for a Judicial Determination. Conciliation Court claim forms are available at the Court Administrator's office in the county where the seizure took place or online at www.mncourts.gov/forms.
2. The Conciliation Court Claim form must be filed in the county where the seizure took place.
3. Complete the claim form and attach a copy of the Notice of Seizure and Intent to Forfeit. Bring the papers to the court administrator's office for filing along with proof of service that a copy of the claim was served on the prosecuting authority who initiated the forfeiture and on the law enforcement agency that initiated the forfeiture. A conciliation court fee is charged unless plaintiff/claimant qualifies to have the fee waived. No conciliation court fee is required if the value of the vehicle is less than $500.
4. The person filing the claim is the plaintiff/claimant (your name). The defendant is a description of the seized vehicle. Example: John Smith vs. 1992 Cherokee. You must list this information in the body of the claim form:
   - the make
   - model
   - license plate number
   - VIN number
   - the claim must specifically state the grounds on which the plaintiff alleges the vehicle was improperly seized and the plaintiff's interest in the seized vehicle.
5. You will be notified of the hearing date and time by court administration.
6. Both the law enforcement agency that initiated the forfeiture and the prosecuting authority in the county where the seizure took place must be served personally or by mail with a copy of the claim within 60 days from the date that you received the Notice of Seizure and Intent to Forfeit. Because you are the plaintiff you cannot do this yourself. Service of the claim form must be made by a person who is at least 18 years old and who has no interest in the case or the outcome.
7. The person who serves the law enforcement agency and the prosecuting authority a copy of the claim form must fill out a form called an Affidavit of Service (one for each party served). The plaintiff must file the claim along with the Affidavit of Service with conciliation court. Filing must be done within 60 days from the date that you received the Notice of Seizure and Intent to Forfeit. The Affidavit of Service form is available from conciliation court or online at www.mncourts.gov/forms.

If the plaintiff/claimant prevails, the filing fee must be reimbursed to the person who filed the conciliation court claim. Reimbursement shall be paid from other forfeiture proceeds of the law enforcement agency or prosecuting authority pursuant to Minn. Stat. § 169A.63, subd. 9(h).

Helpful materials may be found at your public county law library. For a directory, see http://mn.gov/law-library/research-links/county-law-libraries.jsp . For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

945

Instructions for Conciliation Court
Demand for Judicial Determination of Property Seized In a Drug Arrest
Value of Vehicle/Property $15,000 or less

Citation: Minn. Stat. § 491A.01, subd. 3; § 491A.02; and § 609.5314, subd. 2 & 3

Conciliation Court claim forms are available at the court administrator's office or online at www.mncourts.gov/forms .

Use court form CCT102 if:

- You have received a Notice of Seizure and Intent to Forfeit.
- **You want your vehicle or property returned.**
- **Your vehicle or property is worth $15,000 or less.**

Within 60 days after you are served with the Notice of Seizure and Intent to Forfeit:

1. You must file the Conciliation Court claim form for a judicial determination.
2. The Conciliation Court claim form must be filed in the county in which the seizure took place.
3. Complete the claim form and attach a copy of the Notice of Seizure and Intent to Forfeit. Bring the papers to the court administrator's office for filing along with proof of service that a copy of the claim was served on the prosecuting authority for the county where the seizure occurred. A conciliation court fee is charged unless plaintiff/claimant qualifies to waive the fee. No conciliation court fee is required if the value of the property/vehicle is less than $500.
4. The person filing the claim is the plaintiff/claimant (your name). The defendant is a description of the seized property/vehicle. Example: John Smith vs. 1992 Cherokee or John Smith vs. U.S. Currency in the amount of $3,483.90). Seized vehicles require that the following information be listed in the body of the claim form:
   - the make
   - model
   - license plate number
   - VIN number

   Other types of seized property will require a detailed description.
   The claim must specifically state the grounds on which the plaintiff alleges the vehicle was improperly seized and the plaintiff's interest in the seized vehicle.
5. Court administration will complete date and time of hearing.
6. The prosecuting authority in the county where the seizure took place must be served with a copy of the claim within 60 days from the date that you received the Notice of Seizure and Intent to Forfeit. Because you are the plaintiff, you cannot do this yourself. Service of the claim must be made by a person who is at least 18 years old and who has no interest in the case or the outcome. He/she may serve the prosecuting authority with a copy of the claim by any means permitted by court rules.
7. The person who serves the claim form must fill out a form called an Affidavit of Service and the person filing the claim in conciliation court must file the Affidavit of Service with the court administrator when filing the claim. Filing must be done within 60 days from the date you received the Notice of Seizure and Intent to Forfeit. The Affidavit of Service form is available from Conciliation Court or online at www.mncourts.gov/forms.

If the plaintiff/claimant prevails, the filing fee must be reimbursed to the person who filed the claim. Reimbursement shall be paid from other forfeiture proceeds of the law enforcement agency or prosecuting authority (see Minn. Stat. § 609.5314, subd. 3(d) and 609.5315, subd. 5).

Helpful materials may be found at your public county law library. For a directory, see http://mn.gov/law-library/research-links/county-law-libraries.jsp . For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

947

Notice of Seizure and Intent to Forfeit in Administrative Forfeiture Crimes
Instructions to Officer:

☐ This form is to be used for administrative forfeitures. Administrative forfeitures may only be used in limited circumstances.

☐ In addition to notice of seizure, a Property Receipt must be given to the party or left at the location of the seizure if reasonably possible.

☐ Copy of notice and receipt and reports on case must be sent to prosecuting authority as soon as possible (within a week if possible, even if pending investigation).

☐ Inform person being served that if he or she has questions, to direct them, **in writing**, to prosecuting authority's office.

☐ **SERVICE:** A completed Notice of Seizure describing the property seized must personally be served on any person who may claim an ownership interest in the seized property. For motor vehicles, the registered owner, if different from the person from whom the motor vehicle is seized, and any lien holder may be served by certified mail to the address shown in the DPS records. The officer serving the Notice must complete the Certificate of Service. **Service must be completed within 60 days of the date the property was seized.**

☐ Leased vehicles can be seized. Contact the prosecuting authority for guidance.

For Controlled Substances:

☐ **NOTE:** The only property that is subject to administrative forfeiture **is money, motor vehicles, precious metals and precious stones, and firearms** and must be found in proximity to controlled substances, forfeitable drug manufacturing or distributing equipment or devices or forfeitable records of manufacture or distribution of controlled substances. Motor vehicles must contain controlled substances with a retail value of $100 or more and possession or sale of the controlled substances is a felony. Firearms and accessories must be found either in a motor vehicle used or intended to be used to commit a felony controlled substance crime, on or in proximity to a person from whom a felony amount of controlled substance is seized, or on the premises and within proximity to a felony amount of controlled substances.

☐ Forfeiture of any other property, or property over $50,000, is permissible only by judicial action and this form may not be used for that property.

I.C.R._____

NOTICE OF SEIZURE AND INTENT TO FORFEIT VEHICLE/ PROPERTY

Ticket or Case Number_____

Date of Seizure_____

D:_____DOB_____

(Name of person given notice)

_____

(Address of person given notice)

YOU ARE NOTIFIED THAT pursuant to Minnesota laws, the following property has been taken into custody: (Include plate number and VIN number for vehicles; attach additional sheet if necessary)

_____

_____

_____

This property is subject to forfeiture because it was used to commit:

☐ Impaired Driving - MS § 169A.63

☐ Off-Highway Vehicle - MS § 84.7741, subd. 2

☐ Controlled Substance - MS § 609.5314

and was seized by the undersigned law enforcement agency at:_____

(location of seizure)

In_____County, on_____, _____(year).

WARNING: You will automatically lose the above-described property and the right to be heard in court if you do not file a lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in conciliation court if the property is worth $15,000 or less; otherwise, you must file in district court. You may not have to pay a filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee if your property is worth less than $500. (See reverse side for additional instructions.)

ADVERTENCIA: Se pierden automáticamente los susodichos bienes junto con el derecho a la audiencia en el tribunal, cuando no se entabla demanda y se presenta copia de la misma a la parte acusadora durante los 60 días posteriores al hecho. La demanda se puede entablar en los tribunales de conciliación cuando la propiedad tenga valor de $15,000 o menos, pero al no ser así se entabla en el tribunal estatal regular. Si no se dispone de los recursos para pagar la cuota por entablar la demanda es posible que ésta sea perdonada. No hay que pagar cuota en el tribunal de conciliación si la pertenencia cuestionada vale menos de $500. (Vea al dorso para otras instrucciones.)

CEEB TOOM: Koj yuav cias li poob koj qhov khoom vaj khoom tsev uas muaj nqes uas zoo xws li saum no thiab xiam koj txoj cai uas yuav mus sab laj hauv tsev hais plaub yog hais tias koj tsis ua ntawv foob thiab xa mus rau tog uas foob koj ua ntej 60 hnub. Koj muaj cai ua ntawv foob hauv lub tsev hais cov plaub me (conciliation court) yog hais tias koj qhov khoom vaj khoom tsev muaj nqes li ntawm $15,000 lossis tsawg tshaj ntawv; tsis li ntawv, koj yuav tsum xa ntawv foob mus rau lub tsev hais plaub loj (district court). Tej zaum koj yuav tsis tau them nqi ua ntawv foob yog hais tias koj them tsis taus. Koj yuav tsis tau them qhov nqi hais plaub hauv lub tsev hais plaub me (conciliation court) yog hais tias koj qhov khoom vaj khoom tsev muaj nqes tsawg tshaj $500. (Mus saib sab nraum qab no yog xov paub txog kev qhia kom meej tshaj no ntxiv.)

DIGNIIN: Waxa aad waayeysaa hantida ma guurtada ah ee ku xusan iyo xaqa aad u leedhay in maxkamadi dhageysato haddii aadan maxkamadda ka diiwaangelin qaansheegato oo aadan u gudbin xeer ilaalinta 60 cisho gudahood. Waxa aad maxkamadda ka diiwaangelin kartaa dacwadaada haddii hantida qiimaheedu yahay $15,000 ama ka yar, haddii kale, waxa aad dacwadda ka diiwaan gelin kartaa maxkamadda degmada. Lagaama doonayo in aad bixiso kharashka maxkamadda ee diiwaan gelinta dacwada haddii aadan awoodi karin bixinta kharashkaas. Lagaama doonayo in aad bixiso kharashka maxkamadda ee diiwaan gelinta dacwada haddii hantida qiimaheedu ka yar yahay $500. (Bogga ka akhriso macluumad dheeraad ah oo ku saabsan habka diiwaangelinta.)

Certificate of Service

I certify that on _____, _____(yr), I gave a true copy of this notice to the person named above at _____ and have seized the above described property for forfeiture.

(location of service)

_____

Signature of Officer | Badge No. | Date | Law Enforcement Agency

Notice of Seizure Received by:_____ Check if recipient refused to sign ☐

ORIGINAL to PROSECUTING AUTHORITY | PINK COPY to LAW ENFORCEMENT AGENCY | YELLOW COPY to CLAIMANT

Your right to a court challenge of the Administrative Forfeiture:

- Forfeiture of the property is automatic unless within 60 days following service of this Notice of Seizure, you, or any person who has a legal interest in the property, file a demand for a determination by a judge.
- The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure of the property occurred together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture. The complaint must be captioned in your name as plaintiff and the seized property as defendant, and must state the reasons you allege the property was improperly seized, your interest in the property seized, and any affirmative defenses to the seizure or forfeiture of the property.
- If your demand is filed in conciliation court for return of a vehicle seized for impaired driving you must also serve the law enforcement agency that seized the vehicle.
- Failure to comply with all of the above requirements will result in forfeiture of the property.
- If a court orders the return of the seized property, the filing fees will be reimbursed to you.

Your right to a review by the prosecuting authority of the Administrative Forfeiture:

- In addition to your right to a court challenge of the administrative forfeiture and prior to a court order disposing of the property, any person who has a legal interest in the property may also file with the prosecuting authority a written petition for remission or mitigation of the forfeiture.
- This petition does not take the place of a court challenge of the administrative forfeiture, and the prosecuting authority has discretion whether to return any seized property to you.

El derecho de impugnar la confiscación administrativa:

- La confiscación de bienes sucede automáticamente si no se exige fallo del juez por parte del que tenga intereses legales de propietario, en los 60 días posteriores al aviso de confiscación.
- Dicho documento se debe presentar como querella civil, al administrador del tribunal que radica en el condado en el cual fueron confiscado los bienes, junto con constancia de entrega de la querella a la parte acusadora que tenga jurisdicción sobre la confiscación. La querella debe llevar en su encabezamiento el nombre del propietario como demandante y la propiedad confiscada como la parte demandada, junto con los motivos por los cuales alega que dicha propiedad fue indebidamente confiscada, sus intereses en la misma y alguna defensa afirmativa contra su decomiso o confiscación.
- Cuando se entabla demanda en los tribunales de conciliación para exigir la devolución de un vehículo confiscado porque el chofer manejaba con las facultades disminuidas, se debe presentar copia de la misma a las autoridades del orden público que decomisaron el vehículo.
- Los bienes serán confiscados si no se cumple con los requisitos anteriores.
- Se reembolsará la cuota por entablar la demanda si el juez ordena la devolución de los bienes confiscados.

Existe el derecho a la revisión de la confiscación administrativa por la parte acusadora:

- La persona que tiene intereses legales de propietario, además de impugnar la confiscación administrativa en el tribunal y con anterioridad a la orden judicial que disponga de la propiedad, puede presentar a la parte acusadora una petición escrita en la cual se pide remisión o atenuación.
- Esta petición no sustituye a la impugnación procesal de la confiscación administrativa, y la parte acusadora puede decidir según su discreción si se va a devolver alguna parte de lo confiscado.

Koj txoj cai mus tawm tsam kev Ua Ntaub Ntawv Txeeb Khoom Vaj Khoom Tsev:

- Yog hais tias koj, lossis tus neeg uas muaj feem xyuam nrog rau qhov khoom vaj khoom tsev no, tsis ua ntawv foob kom muaj tu neeg txiav txim los soj ntsuam ua ntej 60 hnub tom qab tau txais daim ntawv Ceeb Toom kev Txeeb Khoom Vaj Khoom Tsev (Notice of Seizure), mas kev txeeb khoom vaj khoom tsev yog ib yam cia li txeeb tau yam tsis muaj kev cuam tshtiam hlo li.
- Qhov uas koj xav kom tau mas koj yuav tsum muab sau ua ib tsab ntawv foob thiab xa mus rau cov neeg ceev ntaub ntawv hauv lub tsev hais plaub ntawm lub zej zog (county) uas txeeb qhov khoom vaj khoom tsev ntawv nrog rau daim ntawv pom thawj hais tias koj yeej tau xa ib daim qauv mus rau cov neeg foob koj uas muaj cai los txiav txim siab txog txoj kev txeeb khoom vaj khoom tsev ntawv. Tsab ntawv foob no mas yuav tsum tis koj lub npe ua tus neeg foob (plaintiff) thiab qhov khoom vaj khoom tsev yog tus txheem plaub (defendant), thiab yuav tsum teev saib yog vim li cas koj thiaj li xav hais tias kev txeeb khoom vaj khoom tsev no txeeb tsis raws kev raws cai, koj muaj feem xyuam li cas rau ntawm qhov khoom vaj khoom tsev ua raug txeeb no lawm, thiab yog hais tias ho muaj kev txheem txog ntawm kev ceev lossis txeeb ntawm qhov khoom vaj khoom tsev no.
- Yog hais tias koj ua ntawv foob rau hauv lub tsev hais plaub me (conciliation court) kom thim lub tsheb rov qab vim hais tias tau tsav tsheb thaum koj tsis meej pem mas koj yuav tsum xa daim ntawv foob mus rau lub tsev tub ceev xwm uas yww koj lub tsheb ntawv.
- Yog hais tias koj tsis ua raws li cov lus saum toj no ces qhov khoom vaj khoom tsev ntawv yuav raug txeeb mus.
- Yog hais tias lub tsev hais plaub thim koj qhob khoom vaj khoom tsev rov qab, qhov nqi ua ntawv foob yuav thim rov qab rau koj tib si thiab.

Koj muaj cai kom tog uas foob koj rov los soj ntawm Kev Ua Ntawv Txeeb Khoom Vaj Khoom Tsev (Administrative Forfeiture):

- Dhau li ntawm koj txoj cai mus tawm tsam tim tsev hais plaub txog ntawm kev ua ntawv txeeb khoom vaj khoom tsev thiab ua ntej tau daim ntawv uas lub tsev hais plaub txiav txim txog ntawm qhov khoom ntawv, txhua tus neeg uas muaj feem xyuam rau qhov khoom ntawv muaj cai sau ntawv tuaj rau tog uas foob kom rov soj dua thiab ua kom txoj kev txeeb khoom vaj khoom tsev no pheej yim.
- Tsab ntawv no sawv cev tsis tau ntawm txoj kev tawm tsam hauv tsev hais plaub, thiab tog uas foob koj muaj kev txiav txim siab saib lawv puas yuav rov koj cov khoom vaj khoom tsev rov qab rau koj.

Xaqa aad u leedahay in aad maxkamadda hor keento hanti lagaala wareegay:

- Hantida lala wareego waa mid aan la soo celineyn haddii 60 maalmood gudahood marka uu soo gaaro hantiilaha ogeysiiska lagula wareegayo aanu hantiilaha ama qof kale oo sharci ahaan wakiil ka ah uusan maxkamadda u soo gudbin codsi uu ku codsanayo in uu go'aan ka gaaro.
- Waa in codsiga maxkmadda loo soo gudbinayo noqdaa mid qoraal ah loona soo gudbiyo maxkamadda degaanka hantida lagula wareegay iyadoo la soo raacinayo in qoraalka loo gudbiyey xeer ilaalinta degmada hantida lagula wareegay. Qoraalka waa in lagu muujiyaa magaca dacwoodaha iyo xeeer ilaalinta degmada dacwada loo heysto waana in lagu caddeeyaa sababta la sheeganayo in hantida loola wareegay, doorkaaga inaad tahay hantiilaha ama wakiilka hantiilaha, iyo waxyaabaha difaaca ah oo aad ku sheegayso in hantida lala wareegay aanay sharciga waafaqsaneyn.
- Haddii waydiisashada aad weydiisanayo in laguu soo celiyo gaari lagaala wareegay ka dib markii aad waday oo adiga oo cabsan aa isticmaalay maandooriye aad ka diiwaangeliso maxkamadda waxaa waajib kugu ah in nuqul ka mid ah dacwada aad ka diiwangelisay maxkamadda u gudbiso ciidamada nabadeglayada ee la wareegay.
- Haddii dacwooduhu aanu u raacin nidaamka kor ku xusan waxa ay keeni kartaa in hantida lala wareego.
- Haddii maxkamaddu amarto in hantida lala wareegay loo celiyo qofkii lahaa, kharashka maxkamadda looga diiwaan geliyey dib ayaa loogu celinayaa qofka.

Xaqa aad u leedahay in xeer ilaalintu dib u eegaan go'aanka hanti lagula wareegay:

- Xaqa aad u leedahay in aad maxkamdda ka dacwooto oo maxkamaddu aanay soo saarin amar lagu joojinayo hantida lala wareegay, hantiilaha ama qof kale oo wakiil ka ah ayaa codsi qoraal ah u soo gudbin kara xeer ilaalinta degmada uu ku weydiisanayo in dib loo eego go'aanka lagula wareegay aa loo celiyo hantida lala wareegay.
- Codsiga noocan ah ma aha mid ay maxkamaddu wax shaqo ah ku leedahay waxaana go'aankiisa iska leh xeer ilaalinta codsiga loo soo gudbiyey oo go'aan ka gaarta in hantida dib loo celiyo ama lala wareego.