

**ADM10-8051  
STATE OF MINNESOTA  
IN SUPREME COURT**

**In re: Minnesota Supreme Court Civil Justice Reform Task Force**

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**Recommendations of the  
Minnesota Supreme Court Civil Justice Reform Task Force**

**SUPPLEMENTAL REPORT  
May 22, 2012**

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Chair

Honorable Christopher Dietzen  
Liaison Justice

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Honorable Robert Awsumb  
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## Supplemental Report of the Civil Justice Task Force

### Introduction

In its December 23, 2011 report, the Civil Justice Reform Task Force recommended changes that will facilitate more effective and efficient case processing. To supplement the recommendations, the court directed the task force to prepare the following rules, case management orders, and forms:

1. **Appendix A:** Proposed changes to the Rules of Civil Procedure and the General Rules of Practice for the District Courts regarding:
  - a. Adopting A Proportionality Consideration Requirement for Discovery (R. Civ. P. 1, 26.01);
  - b. Continuing to Allow Commencement of Actions by Service, but with a One-Year Filing Requirement (R. Civ. P. 3.01, 5.04).
  - c. Adopting the Federal Court Automatic Disclosure Regime (R. Civ. P. 26.01);
  - d. Replace Informational Statement with New Civil Cover Sheet (Non-Family) (Gen. R. Prac. 104, 111.02, 111.03 and Form 104A);
  - e. Adopting an Expedited Procedure for Nondispositive Motions (Gen. R. Prac. 15.04);
2. **Appendix B:** Expedited Litigation Track assignment order;
3. **Appendix C:** Expedited Litigation Track case management order;
4. **Appendix D:** Complex Case Program Election Form; and
5. **Appendix E:** Complex Case Program Case Management Order.

A discussion of the proposed rule changes, Expedited Litigation Track, and Complex Case Program is set forth in the December 23, 2011, Task Force Report. Proposed rules for the Expedited Litigation Track and Complex Case Program are included as Appendices to the December 23, 2011 report.

1 **Appendices**

2 **Appendix A: Proposed changes to the Rules of Civil Procedure and the General**  
3 **Rules of Practice for the District Courts**  
4 **CIVIL JUSTICE REFORM TASK FORCE PROPOSALS**  
5 **MINNESOTA RULES OF CIVIL PROCEDURE**

6  
7 **RULE 1. SCOPE OF RULES**

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

11 At all times, the court and the parties must address the action in ways designed to assure  
12 that the process and the costs are proportionate to the amount in controversy and the complexity  
13 and importance of the issues. The factors to be considered by the court in making a  
14 proportionality assessment include, without limitation: needs of the case, amount in controversy,  
15 parties' resources, and complexity and importance of the issues at stake in the litigation. This  
16 proportionality rule is fully applicable to all discovery, including the discovery of electronically  
17 stored information.

18 \* \* \*

19  
20 **RULE 3. COMMENCEMENT OF THE ACTION; SERVICE OF THE COMPLAINT**

21 **Rule 3.01. Commencement of the Action**

22 A civil action is commenced against each defendant:

23  
24 (a) when the summons is served upon that defendant, or

25  
26 (b) at the date of acknowledgement of service if service is made by mail, or

27  
28 (c) when the summons is delivered to the sheriff in the county where the  
29 defendant resides for service; but such delivery shall be ineffectual unless within 60 days  
30 thereafter the summons is actually served on that defendant or the first publication  
31 thereof is made.

32  
33 Filing requirements are set forth in rule 5.04, which requires filing with the court within  
34 one year after commencement.

35

36 \* \* \*

37

38 **RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS**

39 \* \* \*

40 **Rule 5.04 Filing; Certificate of Service**

41 Any action that is not filed with the court within one year of commencement is deemed  
42 dismissed:

43 [alternative 1] with prejudice unless the parties within that year sign a stipulation to  
44 extend the filing period.

45 [alternative 2] without prejudice but filing with the court is required for  
46 reinstatement.

47 All papers after the complaint required to be served upon a party, together with a  
48 certificate of service, shall be filed with the court within a reasonable time after service, except  
49 expert disclosures and reports, depositions upon oral examination and interrogatories, requests  
50 for documents, requests for admission, and answers and responses thereto shall not be filed  
51 unless upon order of the court or for use in the proceeding.

52 The administrator shall not refuse to accept for filing any paper presented for that purpose  
53 solely because it is not presented in proper form as required by these rules or any local rules or  
54 practices.

55 \* \* \*

56

57 **RULE 26. DUTY TO DISCLOSE; GENERAL PROVISIONS GOVERNING**  
58 **DISCOVERY**

59 **26.01. Discovery Methods Required Disclosures**

60 ~~Parties may obtain discovery by one or more of the following methods: depositions by oral~~  
61 ~~examination or written questions; written interrogatories; production of documents or things or~~  
62 ~~permission to enter upon land or other property; for inspection and other purposes; physical (including~~  
63 ~~blood) and mental examinations; and requests for admission.~~

64 **(a) Initial Disclosure.**

65           (1) In General. Except as exempted by Rule 26.01(a)(2) or as otherwise  
66 stipulated or ordered by the court, a party must, without awaiting a discovery request,  
67 provide to the other parties:

68           (A) the name and, if known, the address and telephone number of each  
69 individual likely to have discoverable information—along with the subjects of  
70 that information—that the disclosing party may use to support its claims or  
71 defenses, unless the use would be solely for impeachment;

72           (B) a copy—or a description by category and location—of all documents,  
73 electronically stored information, and tangible things that the disclosing party has  
74 in its possession, custody, or control and may use to support its claims or  
75 defenses, unless the use would be solely for impeachment;

76           (C) a computation of each category of damages claimed by the disclosing  
77 party—who must also make available for inspection and copying as under Rule  
78 34 the documents or other evidentiary material, unless privileged or protected  
79 from disclosure, on which each computation is based, including materials bearing  
80 on the nature and extent of injuries suffered; and

81           (D) for inspection and copying as under Rule 34, any insurance agreement  
82 under which an insurance business may be liable to satisfy all or part of a possible  
83 judgment in the action or to indemnify or reimburse for payments made to satisfy  
84 the judgment.

85           (2) Proceedings Exempt from Initial Disclosure. The following proceedings are  
86 exempt from initial disclosure:

87           (A) an action for review on an administrative record;

88           (B) a forfeiture action in rem arising from a state statute;

89           (C) a petition for habeas corpus or any other proceeding to challenge a  
90 criminal conviction or sentence;

91           (D) an action brought without an attorney by a person in the custody of the  
92 United States, a state, or a state subdivision;

93           (E) an action to enforce or quash an administrative summons or subpoena;

94           (F) a proceeding ancillary to a proceeding in another court;

95           (G) an action to enforce an arbitration award;

96           (H) family court actions under Gen. R. Prac. 301 - 378;

97           (I) Torrens actions;

- 98                   (J) conciliation court appeals,
- 99                   (K) forfeitures,
- 100                  (L) removals from housing court to district court;
- 101                  (M) harassment proceedings;
- 102                  (N) name change proceedings;
- 103                  (O) default judgments;
- 104                  (P) actions to either docket a foreign judgment or re-docket a judgment  
105                  within the district
- 106                  (Q) appointment of trustee;
- 107                  (R) condemnation appeal;
- 108                  (S) confession of judgment;
- 109                  (T) implied consent;
- 110                  (U) restitution judgment; and
- 111                  (V) tax court filings.

112                  (3) Time for Initial Disclosures—In General. A party must make the initial  
113                  disclosures at or within 30 days after the original due date when an answer is required,  
114                  unless a different time is set by stipulation or court order, or unless a party objects during  
115                  the conference that initial disclosures are not appropriate in this action and states the  
116                  objection in the proposed discovery plan. In ruling on the objection, the court must  
117                  determine what disclosures, if any, are to be made and must set the time for disclosure.  
118                  In medical malpractice and other professional malpractice cases in which an expert  
119                  affidavit is required, a party must make initial disclosures within sixty (60) days of the  
120                  service of the expert affidavit.

121                  (4) Time for Initial Disclosures—For Parties Served or Joined Later. A party that  
122                  is first served or otherwise joined after the initial disclosures are due under rule  
123                  26.01(a)(3) must make the initial disclosures within 30 days after being served or joined,  
124                  unless a different time is set by stipulation or court order.

125                  (5) Basis for Initial Disclosure; Unacceptable Excuses. A party must make its  
126                  initial disclosures based on the information then reasonably available to it. A party is not  
127                  excused from making its disclosures because it has not fully investigated the case or  
128                  because it challenges the sufficiency of another party's disclosures or because another  
129                  party has not made its disclosures.

130                  **(b) Disclosure of Expert Testimony.**

131 (1) In General. In addition to the disclosures required by Rule 26.01(a), a party  
132 must disclose to the other parties the identity of any witness it may use at trial to present  
133 evidence under Minnesota Rule of Evidence 702, 703, or 705.

134 (2) Witnesses Who Must Provide a Written Report. Unless otherwise stipulated or  
135 ordered by the court, this disclosure must be accompanied by a written report—prepared  
136 and signed by the witness—if the witness is one retained or specially employed to  
137 provide expert testimony in the case or one whose duties as the party's employee  
138 regularly involve giving expert testimony. The report must contain:

139 (A) a complete statement of all opinions the witness will express and the  
140 basis and reasons for them;

141 (B) the facts or data considered by the witness in forming them;

142 (C) any exhibits that will be used to summarize or support them;

143 (D) the witness's qualifications, including a list of all publications  
144 authored in the previous 10 years;

145 (E) a list of all other cases in which, during the previous 4 years, the  
146 witness testified as an expert at trial or by deposition; and

147 (F) a statement of the compensation to be paid for the study and testimony  
148 in the case.

149 (3) Witnesses Who Do Not Provide a Written Report. Unless otherwise stipulated  
150 or ordered by the court, if the witness is not required to provide a written report, this  
151 disclosure must state:

152 (A) the subject matter on which the witness is expected to present  
153 evidence under Minnesota Rule of Evidence 702, 703, or 705; and

154 (B) a summary of the facts and opinions to which the witness is expected  
155 to testify.

156 (4) Time to Disclose Expert Testimony. A party must make these disclosures at  
157 the times and in the sequence that the court orders. Absent a stipulation or a court order,  
158 the disclosures must be made:

159 (A) at least 90 days before the date set for trial or for the case to be ready  
160 for trial; or

161 (B) if the evidence is intended solely to contradict or rebut evidence on the  
162 same subject matter identified by another party under Rule 26.01(a)(2) or (3),  
163 within 30 days after the other party's disclosure.

164 (5) Supplementing the Disclosure. The parties must supplement these disclosures  
165 when required under Rule 26.05.

166 **(c) Pretrial Disclosures.**

167 (1) In General. In addition to the disclosures required by Rule 26.01(a) and (b), a  
168 party must provide to the other parties and promptly file the following information about  
169 the evidence that it may present at trial other than solely for impeachment:

170 (A) the name and, if not previously provided, the address and telephone  
171 number of each witness—separately identifying those the party expects to present  
172 and those it may call if the need arises;

173 (B) the designation of those witnesses whose testimony the party expects  
174 to present by deposition and, if not taken stenographically, a transcript of the  
175 pertinent parts of the deposition; and

176 (C) an identification of each document or other exhibit, including  
177 summaries of other evidence—separately identifying those items the party  
178 expects to offer and those it may offer if the need arises.

179 (2) Time for Pretrial Disclosures; Objections. Unless the court orders otherwise,  
180 these disclosures must be made at least 30 days before trial. Within 14 days after they are  
181 made, unless the court sets a different time, a party may serve and promptly file a list of  
182 the following objections: any objections to the use under Rule 32.01 of a deposition  
183 designated by another party under Rule 26.01(c)(1)(B); and any objection, together with  
184 the grounds for it, that may be made to the admissibility of materials identified under  
185 Rule 26.01(c)(1)(C). An objection not so made—except for one under Minnesota Rule of  
186 Evidence 402 or 403—is waived unless excused by the court for good cause.

187 (d) Form of Disclosures. Unless the court orders otherwise, all disclosures under Rule  
188 26.01 must be in writing, signed, and served.

189 **26.02. Discovery Methods, Scope and Limits**

190 Unless otherwise limited by order of the court in accordance with these rules, the  
191 methods and scope of discovery is as follows:  
192

193 (a) **Methods.** Parties may obtain discovery by one or more of the following  
194 methods: depositions by oral examination or written questions; written interrogatories;  
195 production of documents or things or permission to enter upon land or other property; for  
196 inspection and other purposes; physical (including blood) and mental examinations; and  
197 requests for admission.

198  
199 (b) **In-General Scope and Limits.** Discovery must be limited to matters that  
200 would enable a party to prove or disprove a claim or defense or to impeach a witness and  
201 must comport with the factors of proportionality in rule 1, including the importance of the  
202 proposed discovery in resolving the issues, total costs and burdens of discovery compared

203 to the amount in controversy, and total costs and burdens of discovery compared to the  
204 resources of each party. Subject to these limitations, Parties may obtain discovery  
205 regarding any matter, not privileged, that is relevant to a claim or defense of any party,  
206 including the existence, description, nature, custody, condition and location of any books,  
207 documents, or other tangible things and the identity and location of persons having  
208 knowledge of any discoverable matter. Upon a showing of For good cause and  
209 proportionality, the court may order discovery of any matter relevant to the subject matter  
210 involved in the action. Relevant information sought need not be admissible at the trial if  
211 discovery appears reasonably calculated to lead to the discovery of admissible evidence.

212  
213 **(b) Limitations.**  
214

215 (1) Authority to Limit Frequency and Extent. The court may establish or  
216 alter the limits on the number of depositions and interrogatories and may also  
217 limit the length of depositions under Rule 30 and the number of requests under  
218 Rule 36. The court may act upon its own initiative after reasonable notice or  
219 pursuant to a motion under Rule 26.03.  
220

221 (2) Limits on Electronically Stored Evidence for Undue Burden or Cost.  
222 A party need not provide discovery of electronically stored information from  
223 sources that the party identifies as not reasonably accessible because of undue  
224 burden or cost. On motion to compel discovery or for a protective order, the party  
225 from whom discovery is sought must show that the information is not reasonably  
226 accessible because of undue burden or cost. If that showing is made, the court  
227 may nonetheless order discovery from such sources if the requesting party shows  
228 good cause and proportionality, considering the limitations of Rule 26.02(b)(3).  
229 The court may specify conditions for the discovery.  
230

231 (3) Limits Required When Cumulative; Duplicative; More Convenient  
232 Alternative; and Ample Prior Opportunity. The frequency or extent of use of the  
233 discovery methods otherwise permitted under these rules shall be limited by the  
234 court if it determines that: (i) the discovery sought is unreasonably cumulative or  
235 duplicative, or is obtainable from some other source that is more convenient, less  
236 burdensome, or less expensive; or (ii) the party seeking discovery has had ample  
237 opportunity by discovery in the action to obtain the information sought; or (iii) ~~the~~  
238 ~~burden or expense of the proposed discovery outweighs its likely benefit, taking~~  
239 ~~into account the needs of the case, the amount in controversy, the parties'~~  
240 ~~resources, the importance of the issues at stake in the litigation, and the~~  
241 ~~importance of the proposed discovery in resolving the issues.~~ The court may act  
242 upon its own initiative after reasonable notice or pursuant to a motion under Rule  
243 26.03.  
244

245 (c) **Insurance Agreements.** In any action in which there is an insurance policy  
246 that may afford coverage, any party may require any other party to disclose the coverage  
247 and limits of such insurance and the amounts paid and payable thereunder and, pursuant  
248 to Rule 34, may obtain production of the insurance policy; provided, however, that this

249 provision will not permit such disclosed information to be introduced into evidence  
250 unless admissible on other grounds.

251

252 **(d) Trial Preparation: Materials.** Subject to the provisions of Rule 26.02(e) a  
253 party may obtain discovery of documents and tangible things otherwise discoverable  
254 pursuant to Rule 26.02(a) and prepared in anticipation of litigation or for trial by or for  
255 another party or by or for that other party's representative (including the other party's  
256 attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the  
257 party seeking discovery has substantial need of the materials in the preparation of the  
258 party's case and that the party is unable without undue hardship to obtain the substantial  
259 equivalent of the materials by other means. In ordering discovery of such materials when  
260 the required showing has been made, the court shall protect against disclosure of the  
261 mental impressions, conclusions, opinions, or legal theories of an attorney or other  
262 representative of a party concerning the litigation.

263

264 A party may obtain without the required showing a statement concerning the  
265 action or its subject matter previously made by that party. Upon request, a party or other  
266 person may obtain without the required showing a statement concerning the action or its  
267 subject matter previously made by that person who is not a party. If the request is  
268 refused, the person may move for a court order. The provisions of Rule 37.01(d) apply to  
269 the award of expenses incurred in relation to the motion. For purposes of this paragraph,  
270 a statement previously made is (1) a written statement signed or otherwise adopted or  
271 approved by the person making it, or (2) a stenographic, mechanical, electrical, or other  
272 recording, or a transcription thereof, that is a substantially verbatim recital of an oral  
273 statement by the person making it and contemporaneously recorded.

274

275 **(e) Trial Preparation: Experts.** Discovery of facts known and opinions held by  
276 experts, otherwise discoverable pursuant to Rule 26.02(a) and acquired or developed in  
277 anticipation of litigation or for trial, may be obtained only as follows:

278

279 (1)(A) A party may through interrogatories require any other party to  
280 identify each person whom the other party expects to call as an expert witness at  
281 trial, to state the subject matter on which the expert is expected to testify, and to  
282 state the substance of the facts and opinions to which the expert is expected to  
283 testify and a summary of the grounds for each opinion. (B) Upon motion, the  
284 court may order further discovery by other means, subject to such restrictions as  
285 to scope and such provisions, pursuant to Rule 26.02 (e)(3), concerning fees and  
286 expenses, as the court may deem appropriate.

287

288 (2) A party may discover facts known or opinions held by an expert who  
289 has been retained or specially employed by another party in anticipation of  
290 litigation or preparation for trial and who is not expected to be called as a witness  
291 at trial, only as provided in Rule 35.02 or upon a showing of exceptional  
292 circumstances under which it is impracticable for the party seeking discovery to  
293 obtain facts or opinions on the same subject by other means.

294

295 (3) Unless manifest injustice would result, (A) the court shall require the  
296 party seeking discovery to pay the expert a reasonable fee for time spent in  
297 responding to discovery pursuant to Rules 26.02(e)(1)(B) and 26.02(e)(2); and  
298 (B) with respect to discovery obtained pursuant to Rule 26.02(e)(1)(B), the court  
299 may require, and with respect to discovery obtained pursuant to Rule 26.02(e)(2)  
300 the court shall require, the party seeking discovery to pay the other party a fair  
301 portion of the fees and expenses reasonably incurred by the latter party in  
302 obtaining facts and opinions from the expert.

303  
304 **(f) Claims of Privilege or Protection of Trial Preparation Materials.**  
305

306 (1) When a party withholds information otherwise discoverable under  
307 these rules by claiming that it is privileged or subject to protection as trial  
308 preparation material, the party shall make the claim expressly and shall describe  
309 the nature of the documents, communications, or things not produced or disclosed  
310 in a manner that, without revealing information itself privileged or protected, will  
311 enable other parties to assess the applicability of the privilege or protection.  
312

313 (2) If information is produced in discovery that is subject to a claim of  
314 privilege or of protection as trial-preparation material, the party making the claim  
315 may notify any party that received the information of the claim and the basis for  
316 it. After being notified, a party must promptly return, sequester, or destroy the  
317 specified information and any copies it has and may not use or disclose the  
318 information until the claim is resolved. A receiving party may promptly present  
319 the information to the court under seal for a determination of the claim. If the  
320 receiving party disclosed the information before being notified, it must take  
321 reasonable steps to retrieve it. The producing party must preserve the information  
322 until the claim is resolved.  
323

324 **MINNESOTA GENERAL RULES OF PRACTICE**

325 **RULE 104. CIVIL COVER SHEET AND CERTIFICATE OF REPRESENTATION AND**  
326 **PARTIES**

327 Except as otherwise provided in these rules for specific types of cases and in cases where  
328 the action is commenced by filing by operation of statute, a party filing a civil case shall, at the  
329 time of filing, notify the court administrator in writing of:

330 (a) If the case is a family case or a civil case listed in rule 111.01 of this rule, the  
331 name, postal address, e-mail address, and telephone number of all counsel and unrepresented  
332 parties, if known, in a Certificate of Representation and Parties (see Form 104 promulgated by  
333 the state court administrator and published on the website [www.mncourts.gov](http://www.mncourts.gov) appended to these  
334 rules) or  
335

336 (b) If the case is a non-family civil case other than those listed in rule 111.01, basic  
337 information about the case in a Civil Cover Sheet (see Form 104A promulgated by the state court

338 administrator and published on the website [www.mncourts.gov](http://www.mncourts.gov)) which shall also include the  
339 information required in part (a) of this rule.

340 If that information is not then known to the filing party, it shall be provided to the court  
341 administrator in writing by the filing party within seven days of learning it. Any party  
342 impleading additional parties shall provide the same information to the court administrator. The  
343 court administrator shall, upon receipt of the completed certificate, notify all parties or their  
344 lawyers, if represented by counsel, of the date of filing the action and the file number assigned.

345 **Rule 111.02 The Party's Scheduling Input Informational Statement**

346 If no sufficient civil cover sheet has been filed as required by Rule 104, the  
347 court may direct that Within 60 days after an action has been filed, each party shall  
348 submit a civil cover sheet, on a form to be available from the court (see Form 111.02  
349 appended to these rules), the information needed by the court to manage and schedule the  
350 ease. The information provided shall include:

- 351 ~~\_\_\_\_\_ (a) \_\_\_\_\_ The status of service of the action;~~
- 352 ~~\_\_\_\_\_ (b) \_\_\_\_\_ Whether the statement is jointly prepared;~~
- 353 ~~\_\_\_\_\_ (c) \_\_\_\_\_ Description of ease;~~
- 354 ~~\_\_\_\_\_ (d) \_\_\_\_\_ Whether a jury trial is requested or waived;~~
- 355 ~~\_\_\_\_\_ (e) \_\_\_\_\_ Discovery contemplated and estimated completion date;~~
- 356 ~~\_\_\_\_\_ (f) \_\_\_\_\_ Whether assignment to an expedited, standard, or complex track is~~  
357 ~~requested;~~
- 358 ~~\_\_\_\_\_ (g) \_\_\_\_\_ The estimated trial time;~~
- 359 ~~\_\_\_\_\_ (h) \_\_\_\_\_ Any proposals for adding additional parties;~~
- 360 ~~\_\_\_\_\_ (i) \_\_\_\_\_ Other pertinent or unusual information that may affect the~~  
361 ~~scheduling or completion of pretrial proceedings;~~
- 362 ~~\_\_\_\_\_ (j) \_\_\_\_\_ Recommended alternative dispute resolution process, the timing of~~  
363 ~~the process, the identity of the neutral selected by the parties or, if the neutral has not yet~~  
364 ~~been selected, the deadline for selection of the neutral. If ADR is believed to be~~  
365 ~~inappropriate, a description of the reasons supporting this conclusion;~~
- 366 ~~\_\_\_\_\_ (k) \_\_\_\_\_ A proposal for establishing any of the deadlines or dates to be~~  
367 ~~included in a scheduling order pursuant to Minn. Gen. R. Prac. 111.03; and~~

368 ~~(1) Identification of interpreter services (specifying language and, if~~  
369 ~~known, particular dialect) any party anticipates will be required for any witness or party.~~

370 **Rule 111.03 Scheduling Order**

371 (a) **When issued.** No sooner than the due date of a civil cover  
372 sheet under rules 104 and 111.02, 60 days and no longer than 90 days after an  
373 action has been filed, the court shall enter its scheduling order. The court may  
374 issue the order after either a telephone or in-court conference, or without a  
375 conference or hearing if none is needed.

376 \* \* \*

377 **RULE 115. MOTION PRACTICE**

378 \* \* \*

379 **Rule 115.04. Non-Dispositive Motions**

380 (a) No motion shall be heard until the moving party pays any required motion filing fee,  
381 serves a copy of the following documents on the other party or parties and files the original with  
382 the court administrator at least 14 days prior to the hearing:

- 383 (1) Notice of motion and motion;
- 384 (2) Proposed order;
- 385 (3) Any affidavits and exhibits to be submitted in conjunction with the motion;  
386 and
- 387 (4) Any memorandum of law the party intends to submit.

388 (b) The party responding to the motion shall serve a copy of the following documents on  
389 the moving party and other interested parties and shall file the original with the court  
390 administrator at least 7 days prior to the hearing:

- 391 (1) Any memorandum of law the party intends to submit; and
- 392 (2) Any relevant affidavits and exhibits.

393 (c) **Reply Memoranda.** The moving party may submit a reply memorandum, limited to  
394 new legal or factual matters raised by an opposing party's response to a motion, by serving a  
395 copy on opposing counsel and filing the original with the court administrator at least 3 days  
396 before the hearing.

397 (d) Expedited, Informal Non-Dispositive Motion Process. The moving party is  
398 encouraged to consider whether the motion can be informally resolved through a telephone  
399 conference with the judge. The moving party may invoke this informal resolution process by  
400 written notice to the other party and to the court. The moving party shall also contact the  
401 appropriate court administrative or judicial staff to schedule a phone conference. The parties may  
402 (but are not required to) submit short letters, with or without a limited number of documents  
403 attached (no briefs, declarations or sworn affidavits are to be filed), prior to the conference to set  
404 forth their respective positions. The Court will read the written submissions of the parties before  
405 the phone conference, hear arguments of counsel and unrepresented parties at the conference,  
406 and issue its decision at the conclusion of the phone conference or shortly after the conference.  
407 Depending on the nature of the dispute, the Court may or may not issue a written order. The  
408 court may also determine that the dispute must be presented to the Court via formal motion and  
409 hearing. Telephone conferences will not be recorded or transcribed.

410  
411 [NOTE: advisory comments should note that Gen. R. Prac. 115.01 indicates that  
412 this rule does not apply to family law cases.]

413  
414

415 [NOTE: this form and form 104 would not be placed in the rules but would be  
416 promulgated by the state court administrator and posted on the main state court website  
417 ([www.mncourts.gov](http://www.mncourts.gov)). This form 104A is entirely new; underlining to show new  
418 language will be omitted throughout this form]  
419

420  
421 **FORM 104A CIVIL COVER SHEET (Non-FAMILY)**

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422 STATE OF MINNESOTA DISTRICT COURT  
423 COUNTY OF \_\_\_\_\_ JUDICIAL DISTRICT  
424 CASE NO. \_\_\_\_\_  
425

426  
427 **CIVIL COVER SHEET (NON-FAMILY)**

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429 **\*\* (UNLESS OTHERWISE ORDERED BY THE COURT, ONLY THE INITIAL  
430 FILING LAWYER/PARTY NEEDS TO COMPLETE THIS FORM) \*\***

431  
432 Date Case Filed: \_\_\_\_\_

433  
434 \_\_\_\_\_ vs. \_\_\_\_\_  
435

436 This sheet must be filed pursuant to Rule 104 of the General Rules of Practice for  
437 the District Courts, which states: "Except as otherwise provided in these rules for  
438 specific types of cases and in cases where the action is commenced by filing by operation  
439 of statute, a party filing a civil case shall, at the time of filing, notify the court  
440 administrator in writing of:

441  
442 (a) If the case is a family case or a civil case listed in rule 111.01 of this rule, the  
443 name, postal address, e-mail address, and telephone number of all counsel and  
444 unrepresented parties, if known, in a Certificate of Representation and Parties (see Form  
445 104 promulgated by the state court administrator and published on the website  
446 [www.mncourts.gov](http://www.mncourts.gov) appended to these rules) or

447  
448 (b) If the case is a non-family civil case other than those listed in rule 111.01, basic  
449 information about the case in a Civil Cover Sheet (see Form 104A promulgated by the  
450 state court administrator and published on the website [www.mncourts.gov](http://www.mncourts.gov)) which shall  
451 also include the information required in part (a) of this rule.

452  
453 If that information is not then known to the filing party, it shall be provided to the court  
454 administrator in writing by the filing party within seven days of learning it. Any party  
455 impleading additional parties shall provide the same information to the court  
456 administrator. The court administrator shall, upon receipt of the completed certificate,

457 notify all parties or their lawyers, if represented by counsel, of the date of filing the action  
458 and the file number assigned. .”

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1. LIST ALL LAWYERS/PRO SE PARTIES INVOLVED IN THIS CASE.

LAWYER FOR PLAINTIFF(S)

LAWYER FOR DEFENDANT(S)

(if not known, name party and address)

Name of Party \_\_\_\_\_

Name of Party \_\_\_\_\_

Atty Name (Not firm name) \_\_\_\_\_

Atty Name (Not firm name) \_\_\_\_\_

Postal Address \_\_\_\_\_

Postal Address \_\_\_\_\_

E-mail Address \_\_\_\_\_

E-mail Address \_\_\_\_\_

Phone Number \_\_\_\_\_

Phone Number \_\_\_\_\_

MN Atty ID No. \_\_\_\_\_

MN Atty ID No. \_\_\_\_\_

(Attach additional sheet for additional lawyers/parties).

2. Concise statement of the case including facts and legal basis:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. For ELT (Expedited Litigation Track\*) Pilot Courts only:

\$ \_\_\_\_\_ amount in controversy

ELT does not apply

ELT applies (\*See Special Rules for Pilot ELT)

4. Estimated discovery completion within \_\_\_ months from the date of this form.

5. Proposed trial start date: \_\_\_\_\_

6. Estimated trial time: \_\_\_ days \_\_\_ hours (estimates less than a day must be stated in hours).

7. Jury trial is: ( ) waived by consent of \_\_\_\_\_ pursuant to R. Civ. P. 38.02.  
(specify party)

( ) requested by \_\_\_\_\_. (NOTE: Applicable fee must be enclosed.)

(specify party)

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8. Independent physical examination pursuant to R. Civ. P. 35 required? No Yes

9. Identify any party or witness who will require interpreter services, and describe the services (specifying language and, if known, particular dialect) needed.

10. Issues in dispute: \_\_\_\_\_.

11. Case Type/Category: \_\_\_\_\_ (NOTE: select case type from Form 23, Subject Matter Index for Civil Cases, appended to the Minnesota Rules of Civil Procedure).

12. Recommended Alternative Dispute Resolution (ADR) mechanism\*: \_\_\_\_\_  
\*Note: select from list of ADR processes set forth in Minn. Gen. R. Prac. 114.02(a)  
Recommended ADR provider (known as a "neutral"): \_\_\_\_\_

Recommended ADR completion date: \_\_\_\_\_

If applicable, reasons why ADR not appropriate for this case: \_\_\_\_\_

By signing below, the attorney or party submitting this form certifies that the above information is true and correct.

Submitted by: \_\_\_\_\_  
Attorney Reg. #: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
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**Appendix B: Expedited Litigation Track Assignment Order**

STATE OF MINNESOTA  
COUNTY OF \_\_\_\_\_

DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT

CASE TYPE: \_\_\_\_\_

\_\_\_\_\_, Plaintiff

File Number: \_\_\_\_\_

v.

\_\_\_\_\_, Defendant

**ELT Assignment and Case  
Management Conference Order**

It is ORDERED:

1. This case is assigned to the pilot project (ELT Pilot”) under the Special Rules For a Pilot Expedited Civil Litigation Track (“ELT Rules”);
2. A party objecting to this assignment must make a formal motion under ELT Rule 1, subds. 3 or 4, for removal from the ELT Pilot;
3. Each party shall provide the Automatic Disclosure Of Information required under ELT Rule 2;
4. A Case Management conference shall be held on : \_\_\_\_\_, and each party shall attend the conference prepared to discuss the subjects identified in ELT Rule 3; and
5. The Limitations on Discovery set forth in ELT Rule 4 apply.

Dated: \_\_\_\_\_

BY THE COURT:

\_\_\_\_\_  
Judge of District Court

558 **Appendix C: Expedited Litigation Track Case Management Order**

559 STATE OF MINNESOTA DISTRICT COURT  
560 COUNTY OF \_\_\_\_\_ JUDICIAL DISTRICT

561 CASE TYPE: \_\_\_\_\_  
562 \_\_\_\_\_, Plaintiff File Number: \_\_\_\_\_

563 v. **ELT Case Management Order**

564 \_\_\_\_\_, Defendant

565 \_\_\_\_\_

566 It is ORDERED:

567 1. Each party shall provide the Automatic Disclosure Of Information required under  
568 Rule 2 of the Special Rules For a Pilot Expedited Civil Litigation Track (“ELT Rules”)

569 2. ADR will/will not be used, and if used the deadline and form of ADR shall  
570 be: \_\_\_\_\_;

571 3. The Limitations on Discovery set forth in ELT Rule 4 apply;

572 4. All motions shall be heard by : \_\_\_\_\_;

573 5. The day or week certain for trial is: \_\_\_\_\_;

574 6. The deadline for submitting all trial documents, including witness lists, jury  
575 instructions, special verdict forms, trial briefs and motions in limine  
576 is: \_\_\_\_\_.

577 Dated: \_\_\_\_\_ BY THE COURT:

578 \_\_\_\_\_  
579 \_\_\_\_\_  
580 \_\_\_\_\_  
581 Judge of District Court

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**Appendix D: Complex Case Program Election Form**

STATE OF MINNESOTA  
COUNTY OF \_\_\_\_\_

DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT

CASE TYPE: \_\_\_\_\_

\_\_\_\_\_, Plaintiff

File Number: \_\_\_\_\_

v.

**CCP Election**

\_\_\_\_\_, Defendant

Each party who has signed this document has read and understands the Special Rules for a Complex Case Program (CCP Rules”), and agrees that this case may be governed by the CCP Rules.

\_\_\_\_\_  
Name of Party

\_\_\_\_\_  
Name of Party

\_\_\_\_\_  
Atty Name (Not firm name)

\_\_\_\_\_  
Atty Name (Not firm name)

\_\_\_\_\_  
Postal Address

\_\_\_\_\_  
Postal Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
MN Atty ID No.

\_\_\_\_\_  
MN Atty ID No.

(Add additional signature blocks for additional lawyers/parties).

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**Appendix E: Complex Case Program Sample Case Management Order**

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

CASE TYPE: \_\_\_\_\_

\_\_\_\_\_,

FILE NUMBER: \_\_\_\_\_

Judge \_\_\_\_\_

Plaintiff,

v.

**CASE MANAGEMENT  
ORDER**

\_\_\_\_\_,

Defendant.

41

\_\_\_\_\_

42

43 **WHEREAS**, the Court has determined that this Case Management Order (“CMO”) is  
44 appropriate and will be of assistance in the efficient management of this litigation:

45 **IT IS HEREBY ORDERED**, that this CMO is hereby entered as follows:

46 1. **Case Designation.** Every filing shall contain, in its caption, the Court File Number  
47 \_\_\_\_\_.

48 2. **Applicability of Order.** This CMO applies to all pretrial, trial, and post trial  
49 proceedings.

50 3. **Filing and Service of Papers**

51 a. **Master Service List.** Except as otherwise provided for herein, all papers or  
52 pleadings filed with the Court or served upon a party shall be served as described  
53 in this CMO on counsel for all parties to this action in accordance with the Master  
54 Service List, attached hereto as Exhibit A. For the purposes of economy it shall  
55 be sufficient to state in a certificate of service that the relevant document was  
56 served on counsel for all parties listed on the Master Service List current as of that  
57 date. The Master Service List may be incorporated by reference with express  
58 reference to the revised date thereof, and need not be attached to the certificate of  
59 service. The document served must be addressed to the individual attorney(s) on  
60 the Master Service List.

61 b. **Method and Timing of Service.** Service of all pleadings, motions, deposition  
62 notices, requests for discovery and other papers required to be served upon  
63 counsel for the parties (collectively “papers”) shall be effected upon the parties  
64 according to the Minnesota Rules of Civil Procedure. Parties may opt for pdf  
65 service of all pleadings.

66 c. **Filings.** The original of every pleading and motion shall be filed with this Court  
67 along with proof of service on all counsel, in accordance with the e-filing system  
68 or other system in the venued Court. No fax filings will be permitted. [Where  
69 desired by the court: A courtesy copy of every pleading, motion, or letter shall be  
70 clearly marked ‘courtesy copy’ and directed to Judge \_\_\_\_\_,  
71 C/O \_\_\_\_\_, Judicial Law Clerk.] The filing of discovery materials with  
72 this Court shall be governed by the Minnesota Rules of Civil Procedure, except  
73 that the original of all such papers which are not filed with this Court under such

74 rules shall be kept in the offices of counsel responsible for generating such  
75 pleading, motion or discovery.

76 **d. Correspondence.** All materials, such as correspondence, which are not due to be  
77 docketed, shall be sent directly to the chambers of Judge \_\_\_\_\_.

78 Correspondence and other materials will only be accepted if they are in regards to  
79 general administrative matters. The corresponding party shall contemporaneously  
80 forward a copy of all correspondence and other materials sent to Judge  
81 \_\_\_\_\_ to all counsel by electronic mail or regular mail, as may be  
82 necessary.

83 **e. Motions Requesting Emergency Relief.** Notwithstanding the foregoing, any  
84 motion genuinely requiring emergency relief may be filed with the Court via  
85 facsimile.

#### 86 4. Discovery

87 **a. Document Requests.** The parties shall work diligently to abide by the terms of  
88 the scheduling order. Short extensions of time to respond to discovery between  
89 counsel shall not be unreasonably refused if reasonably required due to the  
90 voluminous number of documents being produced or other necessity associate  
91 with their document production.

92 **i. Place of Production and Procedures.** Unless otherwise agreed by the  
93 parties, parties shall produce documents for inspection and copying, to the  
94 extent practicable, in the form and manner in which the documents have  
95 been maintained in the ordinary course of business or in which they  
96 previously have been maintained for production in litigation. To  
97 distinguish effectively among the documents designated for copying by  
98 the parties, each page of each document copied by any party shall bear a  
99 unique document identification number, with a unique prefix which  
100 identifies the party producing the document (“Bates Stamps” or “Bates  
101 Label”). Where documents or portions of documents are withheld, the  
102 parties shall, either through the numbering system or as otherwise

103 provided in this Order, to the extent reasonably practicable, identify the  
104 number of pages withheld in a manner sufficient to indicate their location  
105 in the file being produced. Where part of a page is redacted, both the fact  
106 and location of the redaction, and the size or extent of the redaction shall  
107 be made clear on the face of the document.

108 Within a reasonable time before production, the producing party  
109 shall advise the inspecting party of the approximate volume of the  
110 documents and a general description of the types of files or other materials  
111 involved. Each party shall produce its documents at its option: (a) by  
112 production of originals as they are kept in the ordinary course of business;  
113 (b) by production of as legible as possible photocopies in the same format;  
114 or (c) by electronic means or other computerized storage.

115 Notwithstanding these provisions, any party may request to inspect the  
116 original of any document, communication, or thing produced and the  
117 parties shall make arrangements for such inspection within ten (10) days  
118 of the request.

119 The location of the production shall be at the place where the  
120 documents are kept in the ordinary course of business, at the office of the  
121 producing attorney, or as otherwise agreed by the parties.

122 ii. *Privilege Log.* If a party determines that a document responsive to a  
123 document request is subject to attorney/client privilege, attorney work  
124 product protection, or any other form of privileges or protection, the  
125 following method of handling the privileged or protected writing shall be  
126 followed. The producing party may withhold the privileged or protected  
127 document and must identify the withheld document on a privilege log  
128 which shall be provided to the requesting party and all other parties as  
129 soon as practicable, but no more than thirty (30) days following the date  
130 on which the producing party is due to commence physical production of  
131 the requested documents. If after completion of production pursuant to a  
132 particular demand for inspection the producing party discovers additional

133 responsive documents and determines any of them to be subject to  
134 attorney/client privilege, attorney work product protection, or any other  
135 form of privilege or protection, the producing party may withhold any  
136 such privileged or protected document and must identify the withheld  
137 document on a privilege log which shall be provided to the requesting  
138 party as soon as practicable, but in no case more than thirty (30) days after  
139 the documents are discovered. Likewise, to the extent any material within  
140 a document otherwise producible contains privileged or protected  
141 information, the document shall be produced subject to redaction of the  
142 subject privileged and protected material and shall be listed on the  
143 privilege log. All privilege logs shall identify each privileged document or  
144 work product by providing the Bates Label range, date, author(s),  
145 recipient(s), the subject matter of the document withheld or information  
146 redacted and the nature of the privilege or work product protection  
147 asserted. Nothing in this section shall preclude a party from challenging a  
148 claim of privilege.

149 **b. Stipulated Confidentiality Order.** All documents and other discovery materials  
150 and testimony produced or provided in this action maybe subject to the terms and  
151 provisions of a Stipulated Confidentiality Order, if requested and agreed by the  
152 parties or ordered by the Court.

153 **c. Inadvertent Production of Privileged Information.** If a party inadvertently  
154 produces information or documents that it considers privileged or protected  
155 material, in whole or in part, or learns of the production of its privileged or  
156 protected material by a third-party, the party may retrieve such information or  
157 documents or parts thereof memoranda and other material as follows:

158 (1) Any assertion of inadvertent production shall be made as soon as  
159 practicable, but in any case within ten (10) days of the date the party  
160 discovers that it, its agents or attorneys, or a third-party has inadvertently  
161 produced the privileged document. The party asserting inadvertent  
162 production must provide written notice to all parties on the Master Service

163 List that the party claims the document, in whole or in part, to be  
164 privileged or protected material; in addition, such notice must state the  
165 nature of the privilege or protection and the factual basis for asserting it.  
166 No assertion of inadvertent production will be made less than thirty (30)  
167 days before trial or fourteen (14) days after service of a trial exhibit list,  
168 whichever comes later.

169 (2) Upon receipt of such notice, all parties who have received copies of the  
170 document shall, within five (5) days thereafter, confer with the producing  
171 party and discuss how to resolve the issue. If no agreement is reached, the  
172 producing party may request reasonable relief from the Court, including  
173 an order that all copies of inadvertently produced documents shall be  
174 returned to the producing party, destroyed or otherwise be made available  
175 for procurement by the requesting party. Parties who received copies of  
176 inadvertently produced documents may oppose the granting of such relief  
177 on any permissible basis, including requesting an order that the  
178 inadvertently produced documents are not privileged and do not constitute  
179 protected attorney work product.

180 (3) In the event that only part of a document is claimed to be privileged or  
181 protected, the party asserting inadvertent production shall furnish to all  
182 parties redacted copies of such document, removing only the part(s)  
183 thereof claimed to be privileged or protected, together with such written  
184 notice.

185 **d. Mutual Use of Discovery.** To help avoid redundancy, all interrogatories,  
186 document requests and requests to admit served by any party inure to the benefit  
187 of and are enforceable by any other party. The settlement, release or dismissal by  
188 any means of any party propounding such discovery will not in any way limit or  
189 extinguish any other party's obligation to comply with the discovery.

190 **e. Contention Interrogatories.** No party is precluded from asking so-called  
191 contention interrogatories which seek a responding party's contentions as to facts

192 or law but responding parties may reserve all rights to render objections and/or  
193 seek leave for protection from the Court.

194 **5. Master Exhibit Book.** The parties shall work together to create a Master Exhibit Book  
195 and submit a copy to the Court when appropriate. A party seeking to reference an exhibit  
196 found in the Master Exhibit Book shall reference the exhibit number. The parties shall  
197 not attach the exhibit to their submission if it is already in the Master Exhibit Book.

198 **6. Motion Practice.** Except as otherwise provided by the Court, pretrial motions in this  
199 litigation shall be governed by the Minnesota Rules of Civil Procedure and by the  
200 General Rules of Practice for the District Courts, provided that these rules are modified  
201 procedurally as follows:

202 (1) Motion hearing dates under Rule 115.02 shall be obtained directly from  
203 \_\_\_\_\_ Judicial Law Clerk, at (\_\_\_\_) \_\_\_\_-\_\_\_\_. The Court expects the  
204 parties to promptly provide notice of the motion hearing date to all other parties as  
205 directed by Rule 115.02;

206 (2) Proposed orders for dispositive motions under Rule 115.03 shall not be submitted  
207 unless specifically requested by the Court;

208 (3) The moving party's certification under Rule 115.10 shall be in writing and shall  
209 be filed separately at least two (2) days prior to the hearing date.

210 Counsel shall attempt to coordinate a hearing date and the notice of motions for  
211 hearing on a date obtained from \_\_\_\_\_, Judicial Law Clerk.

212 Nothing shall restrict any party's right to apply to the Court for an order  
213 shortening or extending time or page limitations on a motion upon a showing of good  
214 cause, but only after making good faith efforts to resolve the issue among counsel.

215 **7. Coordination Amongst Parties.** The Court expects cooperation among the parties to  
216 coordinate motion practice, discovery, trial, or otherwise to minimize the expense in this  
217 litigation. The parties shall, to the maximum extent practicable, avoid duplicative  
218 motions, briefs and discovery ("filings") consistent with each party's individual interests.

219 Since many parties have a commonality of interest as to many issues in the actions, they  
220 may serve joint discovery and file joint submissions with the Court and/or adopt, join in  
221 or support any motion made or discovery propounded by another party simply by so  
222 noting in writing. If all Plaintiffs or all Defendants file joint submissions, the page  
223 limitations contained in Minnesota Rule of General Practice 115.05 will be extended by  
224 15 pages, to a total of 50 pages.

225 **8. Depositions**

226 **a. Cooperation.** The parties shall use reasonable efforts to schedule depositions by  
227 agreement. Unless otherwise agreed, formal notice of depositions scheduled is  
228 required. Unless exigent circumstances exist, the parties will be advised of a  
229 deposition at least ten (10) calendar days before a deposition is scheduled to  
230 commence,

231 **b. Non-Party Depositions.** Counsel shall attempt to resolve with any non-party  
232 deponent the identification for production and subsequent production of any  
233 documents being subpoenaed. Whenever possible, this process shall be  
234 completed no later than seven (7) days before the date on which the deposition  
235 has been scheduled. All counsel shall be given notice of any documents identified  
236 for production pursuant to subpoena and shall have the right to inspect and copy,  
237 at each inspecting party's expense, whatever documents are produced by a non-  
238 party in response to a subpoena. Upon request, a party shall conduct a search of  
239 all records that may disclose the present address of any former employee and shall  
240 provide such information to the requesting party as soon as practicable. Nothing  
241 in this Order shall preclude any party, if it so chooses, from obtaining the  
242 attendance of any former employee or officer of another party for deposition by  
243 subpoena in the first instance.

244 **c. Stipulations.** Unless otherwise noted on the record, the following stipulations  
245 shall apply to all depositions in these actions:

- 246 (1) Any objection by a single party shall be deemed an objection by each and  
247 every similarly situated party;

248 (2) Corrections to a deposition transcript shall be listed on an errata sheet,  
249 copies of which shall be served on all parties by counsel for the deponent  
250 or the deponent, within thirty (30) days following receipt of the deposition  
251 transcript;

252 (3) To the extent practicable, exhibits shall be attached to the original  
253 transcript. Where the form or volume of exhibits makes attachment to the  
254 transcript impractical, the custody of such exhibits shall be maintained at  
255 the office of the attorney taking the deposition or the court reporter and  
256 such exhibits shall, after reasonable notice, be subject to inspection and  
257 copying by any party during normal business hours or by appointment;

258 (4) The parties shall strive to select and retain court reporters that can produce  
259 transcripts in manuscript and computer-readable format and any other  
260 agreed format. The parties may stipulate to maintain an online repository  
261 for all depositions taken in these cases subject to limitations on  
262 accessibility as may be determined by the parties.

263 **d. Deposition Schedule.** With respect to aged or infirm witnesses, counsel shall  
264 abide by the reasonable request of such witnesses with regard to timing and  
265 availability for deposition testimony. The parties will undertake all reasonable  
266 efforts to conduct depositions in an efficient, cost-effective and expedited manner.

267 **e. Attendance and Interrogation.** All parties shall be entitled to be represented at  
268 every deposition and to inquire of a deponent through their counsel. A former  
269 employee or officer may be represented at his or her deposition by counsel for the  
270 former employer. In order to facilitate necessary arrangements for attending  
271 counsel, not less than two (2) days prior to the commencement date of a  
272 deposition, any counsel intending to attend the deposition shall use its best efforts  
273 to notify the noticing party and counsel for the deponent.

274 **f. Time and Location of Depositions.** Depositions may be held Monday through  
275 Friday, and shall commence no earlier than 9:00 a.m., and conclude no later than  
276 5:00 p.m. local time, unless otherwise agreed between counsel or ordered by the

277 Court. No deposition shall be scheduled for more than two (2) consecutive days  
278 absent agreement by the parties or order of the Court. A deposition may,  
279 however, proceed for a third consecutive day without agreement of the parties or  
280 order of the Court if there is at least eighteen (18) hours between the end of the  
281 second deposition day and the commencement of the third. To save expense and  
282 travel time, all sessions of the deposition of a single deponent shall, to the extent  
283 consistent with the witnesses' schedule and health and the deposition schedule,  
284 and unless otherwise agreed, proceed on successive weekdays and for the full  
285 deposition day until completion. Except as the parties may agree, no deposition  
286 shall be scheduled on the following dates: Court hearing dates, Martin Luther  
287 King, Jr.'s Birthday, President's Day, Good Friday, Passover (the first two days),  
288 Memorial Day, Independence Day (including the preceding Monday if it falls on  
289 a Tuesday or the following Friday if it falls on a Thursday), Labor Day, Rosh  
290 Hashanah (two days), Yom Kippur (two days), Columbus Day, Veterans Day,  
291 Thanksgiving (Wednesday, Thursday and Friday) Eid Ul Fitr (one day), and Eid  
292 Ul Adha (one day). Depositions of witnesses residing outside the United States  
293 shall not be scheduled on national holidays in the witness' home country. In  
294 addition, no depositions shall be scheduled between December 19 and January 3,  
295 except upon agreement of the parties.

296 **g. Exhibits.** To the extent practicable, all parties intending to question a witness at a  
297 deposition with respect to documents shall provide a reasonable number of copies  
298 of such documents for the use of the other parties in attendance at the deposition.  
299 Exhibit numbering shall be in accordance with Minn. Gen. R. Prac. 130.

300 **h. Objections.** The only objections that shall be raised at the deposition are those  
301 involving a privilege or other protection against disclosure or some matter that  
302 may be remedied at the time, such as to the form of the question, that the question  
303 has previously been asked and clearly answered, or the responsiveness of the  
304 answers. Objections on any other grounds shall be avoided and are not waived  
305 but preserved until trial. All objections shall be concise and must not suggest  
306 answers to the deponent. So called "speaking objections" are not permitted.

307 Except as to an objection on grounds of privilege, any objection made by one  
308 party reserves that objection for all other parties and duplicate objections shall not  
309 be made.

310 **i. Directions to Deponent Not to Answer.** Directions to a deponent not to answer  
311 are improper except on the grounds of privilege, confidentiality, or other  
312 protection, or to enable the party or deponent to present a motion to the Court for  
313 termination of the deposition or protection under Minnesota Rule of Civil  
314 Procedure 26.03. When privilege, confidentiality or other protection is claimed,  
315 the witness shall nevertheless answer questions relevant to the existence, extent or  
316 waiver of the privilege, confidentiality, or other protection.

317 **j. Immediate Presentation of Deposition Disputes.** Consistent with discovery  
318 concepts and objectives set forth above, if disputes arise during a deposition  
319 which the attorneys cannot resolve by agreement and which, if not promptly  
320 decided, will critically disrupt the discovery program or court-imposed schedules,  
321 the parties may submit the matter orally by telephone to the undersigned if  
322 available.

323 **9. Avoidance of Unnecessary Duplication.** Cooperation and communication among  
324 parties as ordered herein shall not constitute the waiver of any applicable privilege or be  
325 construed as evidence of wrongful conduct. In the event that any party is in genuine  
326 doubt about the legal effect of the communication and cooperation ordered herein, such  
327 party may seek the Court's clarification of the party's responsibilities before proceeding.

328 **10. No Waiver of Privilege Due to Joint Efforts.** Communications in connection with this  
329 case between and amongst counsel, including the exchange of documents and  
330 information, shall be deemed subject to the attorney/client privilege, work product  
331 protection, and any other applicable privilege or protection to the same extent as if the  
332 communication had taken place within one law firm or between one law firm and one  
333 client represented by that firm. Protection afforded by this Order will survive the  
334 conclusion of this litigation and the dismissal of any party from this action. If a party  
335 withdraws from any cooperative litigation efforts with other parties, previous

336 communications among the withdrawing party and such other parties and all work  
337 product shared by or with the withdrawing party with respect to this action, will remain  
338 subject to any attorney/client privilege, work product protection, or other privilege that  
339 attached at the time the communications were made or the work product was shared.  
340 Any such withdrawing party is under a duty not to reveal information obtained through  
341 such cooperative efforts.

342 **11. Rules and Procedures.** This CMO supersedes any provision of the Minnesota Rules of  
343 Civil Procedure and General Rules of Practice for the District Court to the extent they are  
344 in conflict with the provisions of this CMO.

345 **12. CMO Binding on Subsequently Added Parties.** Any party adding a new party to this  
346 action after the date the CMO is entered shall serve that new party with a copy of this  
347 CMO and any subsequent case management orders. Any such new party will be bound  
348 by this CMO and all other case management orders unless it files a motion for relief with  
349 the Court within ten (10) days after service of this CMO and any other case management  
350 order upon it. Upon the addition of any party to this action, the party adding the new  
351 party shall serve a copy of this CMO on counsel for the new party within five (5) days of  
352 the date of receiving notice of the identity of the new party's counsel.

353 BY THE COURT

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356 Dated: \_\_\_\_\_

357 Judge of District Court