



## MINNESOTA'S AMENDED RULES FOR CIVIL CASES: A SUMMARY

Effective July 1, 2013

Keith Broady, Esq. and Bryan Feldhaus, Esq.

### I. Critical Dates under Amended Rules

Minn. R. Civ. P. 5.04, <b>filing with court:</b>	Within one year of commencement
Minn. R. Gen. P. 104, <b>civil cover sheet:</b>	At the time of filing case with court
Minn. R. Gen. P. 111.02, <b>scheduling information:</b>	At time of filing with civil cover sheet
Minn. R. Civ. P. 26.06, <b>discovery conference:</b>	30 days after initial due date for Answer
Minn. R. Civ. P.26.06(b), <b>discovery plan:</b>	14 days after conference or case filed whichever is later
Minn. R. Civ. P.26.01(a), <b>initial disclosures:</b>	60 days after initial due date for Answer
Minn. R. Gen. P. 111.03, <b>scheduling order:</b>	90 days after case filing or sooner
Minn. R. Civ. P.26.01(b), <b>expert disclosures:</b>	90 days before date for trial or ready for trial
Minn. R. Civ. P.26.01(c), <b>pretrial disclosures:</b>	30 days before trial
Minn. R. Civ. P.26.01(c)(2), <b>objections to disclosures:</b>	14 days after pretrial disclosures

### II. Applicable Dates for Amendments

The amendments to the Rules apply to all actions pending on or commenced on or after July 1, 2013 provided that:

No case shall be involuntarily dismissed for failure to file the case with the court until one year after the effective date, or until July 1, 2014; and

Amendments to Minn. R. Civ. P. 26 which have many new requirements for disclosure and for the scope and limits on discovery apply only to actions commenced on or after July 1, 2013, except the court may direct the parties to comply in cases commenced earlier as part of a pretrial order.

### **III. Commencing a Civil Action – File the Case with the Court within One Year from Date of Service**

The Amended Rules will require that actions be filed with the court within one year of the commencement of the action. That is, within one year from the date of service. That deadline can be extended only by stipulation executed by all parties.

**Minn. R. Civ. P. 3.01:** "Filing requirements are set forth in Rule 5.04, which requires filing with the court within one year after commencement for non-family cases."

**Minn. R. Civ. P. 5.04:** "Any action that is not filed with the court within one year of commencement against any party is deemed dismissed with prejudice against all parties unless the parties within that year sign a stipulation to extend the filing period. This paragraph does not apply to family cases governed by Rules 301 to 378 of the General Rules of Practice for the District Courts." The General Rules do not include a filing requirement for family cases.

### **IV. Discovery and Disclosures – Proportionality and Required Disclosures**

The Amended Rules impose an obligation to consider the proportionality of discovery. The goal is to cut back the volume and extent of discovery. The obligation to assess proportionality is imposed upon both the parties and the court to achieve a just, speedy and inexpensive determination of an action.

**Minn. R. Civ. P. 1:** "It is the responsibility of the court and the parties to examine each civil action to assure that the process and the costs are proportionate to the amount in controversy and the complexity and importance of the issues. The factors to be considered by the court in making a proportionality assessment include: (1) the needs of the case; (2) the amount in controversy; (3) the parties' resources; and (4) the importance of the issues at stake in the litigation."

**Minn. R. Civ. P. 26.02:** "Discovery must be limited to matters that would enable a party to prove or disprove a claim or defense or to impeach a witness and must comport with the factors of proportionality, including without limitation, the burden or expense of the proposed discovery weighed against its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues."

The new Rules impose discovery obligations similar to the Federal Rules. This is governed by Rule 26.01. The disclosure addresses the identity of experts and the exchange of documents, among other things. The disclosure must be made within 60 days of the due date of the answer. In medical malpractice cases, the initial disclosure is due within 60 days after the service of the expert affidavit.

**Minn. R. Civ. P. 26.01(a): Initial Disclosures** will generally require a party to disclose the names and locations of witnesses, documents, ESI, and discoverable information, damages computations, and insurance agreements. Many cases are exempt from this requirement; see Rule 26.01(a)(2).

**Minn. R. Civ. P. 26.01(b): Expert Disclosures** will require a written report containing a complete statement of opinions; facts and data relied upon; expected exhibits; qualifications and publications for prior 10 year period; list of cases in past four years; and a statement regarding compensation.

**Minn. R. Civ. P. 26.01(c): Pretrial Disclosures and Objections** including all (1) witnesses, (2) designation of witnesses whose testimony will be presented by deposition and a transcript of the pertinent parts of the deposition, and (3) identification of each document and exhibit at least 30 days before trial. Objections to the foregoing by the opposing party must be made within 14 days or the objection is waived.

**Minn. R. Civ. P. 26.06: Discovery Conference.** The Amended Rules also require the parties to confer within 30 days from the initial due date for an answer unless otherwise ordered by the court. The parties must discuss the nature and basis of the claims and defenses and the possibility for prompt settlement, among other things. A written report outlining a discovery plan must be filed with the court within 14 days after the conference or at the time the action is filed, whichever is later. There are detailed requirements for that discovery plan, including timing, subjects on which discovery is needed, electronically stored information, privilege and trial preparation materials and limitations on discovery; see Rule 26.06(c).

**Minn. R. Civ. P. 37:** The Amended Rules also make new provisions for the failure to cooperate in discovery, failure to make the required disclosures and failure to participate in framing a discovery plan.

## **V. Litigating Your Case – Case Schedule, Case Type and Informal Non-Dispositive Motion Process**

The General Rules of Practice have been changed.

**Minn. R. Gen. P. 104 and 111.02:** Rule 111.02 addresses scheduling information that now must be submitted to the court as a part of a new civil cover sheet under Minn. R. Gen. P. 104. The civil cover sheet and a revised certificate of representation will be posted on the court's website at [www.mncourts.gov](http://www.mncourts.gov). The civil cover sheet replaces the informational statement.

**Minn. R. Gen. 115.04:** An informal, expedited motion practice has been adopted to resolve non-dispositive motions telephonically with limited written submissions such as short letters and some documents attached, but no sworn affidavits or briefs.

**Minn. R. Gen. P. 146.02:** The General Rules of Practice have also been amended to denote a case as complex. A case that is deemed complex will benefit from early and consistent judicial management; mandatory disclosures; blocking of cases to a single judge; firm trial dates; and case management orders. See Rules 146.03, 146.04 and 146.05.

**KEITH BROADY** is a shareholder at the Lommen Abdo Law Firm. He represents individuals and businesses in a wide variety of litigation and transactional matters. His litigation practice includes professional liability defense, real estate disputes, construction disputes, title insurance, insurance coverage and real estate agents liability. His litigation cases have also involved shareholder disputes, corporate alter ego and successor liability, environmental and mold claims, creditor's claims and fraudulent transfers, burglary and fire losses, contract and agency claims, and probate and trust disputes. His transactional practice includes mergers and acquisitions, real estate sales and leasing, and estate planning. He also serves as a mediator and arbitrator. Keith has repeatedly been named to the Minnesota Super Lawyers list and is AV rated by Martindale-Hubbell. View his bio and v-card at <http://www.lommen.com/Our-Firm/Attorneys/Keith-Broady.aspx>. Keith can be contacted at 612-336-9346 or [kbroady@lommen.com](mailto:kbroady@lommen.com).

**BRYAN FELDHAUS** is a senior associate at the Lommen Abdo Law Firm. He represents clients in a wide variety of civil litigation, including business litigation, professional liability disputes, shareholder and partnership litigation, insurance coverage litigation and intellectual property litigation. Mr. Feldhaus also practices in the areas of appellate law and products liability litigation. He was included in the list of Up & Coming Attorneys in 2011 and has also been listed as a Rising Star in 2011 and 2012 by Minnesota Super Lawyers. View his bio and v-card at <http://www.lommen.com/Our-Firm/Attorneys/Bryan-Feldhaus.aspx>. He can be contacted at 612-336-4389 or [bryan@lommen.com](mailto:bryan@lommen.com).

**612-339-8131 | [www.lommen.com](http://www.lommen.com) | 800-752-4297**

The information in this summary is prepared by Lommen, Abdo, Cole, King & Stageberg, P.A. to offer information on recent legal developments to those interested in rules of Minnesota courts relating to civil cases. This summary is not intended to provide legal advice for a specific situation or to create an attorney-client relationship. You should review the Minnesota Rules of Civil Procedure, the General Rules of Practice for the District Courts, and other applicable rules, statutes and cases for each specific situation and for each client. Lommen Abdo expressly disclaims any liability in respect to actions taken or not taken based on the content of this summary.