

ORIGINAL

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

**ORDER OF ADOPTION**  
Supreme Court No. 20010116

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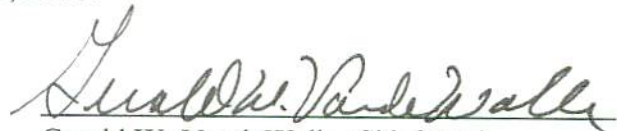
**Amendments to North Dakota Rules of Appellate Procedure 4, 10, 31, and 32,  
and North Dakota Rules of Court 8.5**

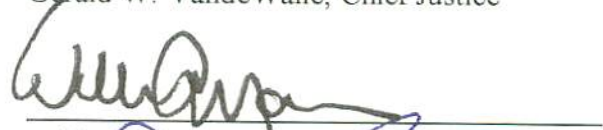
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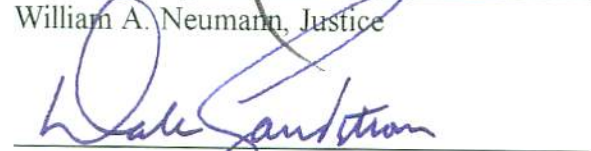
On May 8, 2001, the Joint Procedure Committee filed its Petition for Amendments to N.D.R.App.P. 4, 10, 31, 32 and N.D.R.Ct. 8.5. A copy of the Amendments is attached.

**ORDERED**, that the amendments to N.D.R.App.P. 4, 10, 31, 32, and N.D.R.Ct. 8.5 are approved, effective August 1, 2001, subject to comment. Address written comments to Penny Miller, Clerk of the Supreme Court, 600 E. Boulevard Ave., Dept. 180, Bismarck, ND 58505-0530, no later than **Monday, June 25, 2001**.

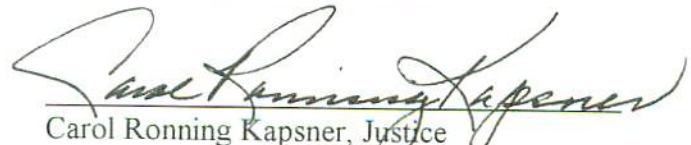
Dated at Bismarck, North Dakota, May 23, 2001.

  
Gerald W. VandeWalle, Chief Justice


  
William A. Neumann, Justice

  
Dale V. Sandstrom, Justice

  
Mary Muehlen Maring, Justice

  
Carol Ronning Kapsner, Justice

ATTEST:

  
Penny Miller, Clerk

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The running of the time for filing a notice of appeal is terminated as to all parties by a timely motion filed in the trial court by any party under the North Dakota Rules of Civil Procedure hereafter enumerated in this sentence, and the full time for appeal fixed by this subdivision commences to run and is to be computed from service of notice of the entry of any of the following orders made upon a timely motion under such rules: (1) granting or denying a motion for judgment under N.D.R.Civ.P. 50(b); (2) granting or denying a motion under N.D.R.Civ.P. 52(b), to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted; (3) granting or denying a motion under N.D.R.Civ.P. 54, for attorneys' fees; (4) granting or denying a motion under N.D.R.Civ.P. 59, to alter or amend the judgment; (5) denying a motion for a new trial under N.D.R.Civ.P. 59; or (6) granting or denying a motion for relief under N.D.R.Civ.P. 60, if the motion is served and filed no later than 15 days after notice of entry of judgment.

22           Upon a showing of excusable neglect, the trial court may extend the time for filing  
23           the notice of appeal by any party for a period not to exceed 30 days from the expiration of  
24           the time otherwise prescribed for appeal by this subdivision, other rule, or statute. Such an  
25           extension may be granted before or after the time otherwise prescribed by this subdivision  
26           has expired; but if a request for an extension is made after such time has expired, it must be  
27           made by motion with such notice as the trial court deems appropriate.

28           (b) Appeals in Criminal Cases.

29           (1) In a criminal case the notice of appeal by a defendant must be filed with the clerk  
30           of the trial court within 10 days after the entry of the judgment or order appealed from. If  
31           a timely motion in arrest of judgment or for a new trial on any ground other than newly  
32           discovered evidence has been made, an appeal from a judgment of conviction may be taken  
33           within 10 days after the entry of an order denying the motion. A motion for a new trial  
34           based on the ground of newly discovered evidence will similarly extend the time for appeal  
35           from a judgment of conviction if the motion is made before or within 10 days after entry of  
36           the judgment.

37           (2) If an appeal by the state is authorized by statute, the notice of appeal must be filed  
38           with the clerk of the trial court within 30 days after the entry of the judgment or order  
39           appealed from.

40           (3) A judgment or order is entered within the meaning of this subdivision when it is  
41           entered in the criminal docket. A notice of appeal filed after the announcement of a  
42           decision, sentence, or order but before entry of the judgment or order must be treated as filed



after the entry and on the day thereof. Upon a showing of excusable neglect the trial court may, before or after the time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this subdivision.

(c) Appeals in Contempt Cases. A notice of appeal shall be filed with the clerk of the trial court within 60 days after entry of judgment or order appealed from. Upon a showing of excusable neglect the trial court may, before or after the time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this subdivision.

(d) Appeal in Post-Conviction Proceeding. A notice of appeal must be filed with the clerk of the trial court within 60 days of service of notice of entry of the judgment or order being appealed. Upon a finding of excusable neglect or good cause, the trial court may, before or after the time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this subdivision.

#### EXPLANATORY NOTE

Rule 4 was amended, effective March 1, 1986; March 1, 1994; March 1, 1997; March 1, 1998; March 1, 1999; August 1, 2001.

The time for civil appeals runs from "service of notice of entry" of the order or judgment. However, service of notice of entry of judgment is not necessary to start the time

running for filing a post-judgment motion or appeal if the record clearly evidences actual knowledge of entry of judgment by the affirmative action of the moving or appealing party. See N.D.R.Civ.P. 58(b); Gierke v. Gierke, 1998 ND 100, ¶¶ 6-12, 578 N.W.2d 522, 525-26. Thorson v. Thorson, 541 N.W.2d 692, 694-95 (N.D. 1996).

The responsibility under subdivision (a) is shifted to counsel to serve the notice and commence the period for appeal. This differs from the federal rule, which provides the time for appeal is to run from "the date of entry."

The time limit for taking an appeal does not prevent the taking of an appeal at any time after the entry of the judgment or order and before service of notice of entry.

Subdivision (a) was amended, effective March 1, 1999, to provide the 30 day extension for excusable neglect is to be added to the time for appeal provided by the statute or rule setting the time for appeal.

Subdivision (b) is similar to N.D.R.Crim.P. 37(b). Paragraphs one and two pertain to appeals by the defendant and prosecution, respectively, and paragraph three pertain to appeals by either the prosecution or defendant.

Subdivision (d) was adopted, effective August 1, 2001, to provide a time for appeal in a post-conviction proceeding.

SOURCES: Joint Procedure Committee Minutes of April 26-27, 2001, pages 4-5; April 30-May 1, 1998, page 13; January 30, 1997, page 8; January 25-26, 1996, pages 7-10; April 29-30, 1993, pages 2-3, 16-18; November 29, 1984, pages 19-20; April 26, 1984, pages 23-24; January 20, 1984, pages 10-15; September 18-19, 1980, page 20;

85      January 12-13, 1978, page 25; Fed.R.App.P. 4.

86            STATUTES AFFECTED:

87            SUPERSEDED: N.D.C.C. § 28-27-04.



## RULE 10. THE RECORD ON APPEAL

(a) Composition of the Record on Appeal. The original papers and exhibits filed in the trial court, three copies of the transcript of proceedings, if any, and a certified copy of the docket entries prepared by the clerk of the trial court constitute the record on appeal in all cases.

(b) The Transcript; Duty of Appellant to Order; Time for Ordering. If an appeal is taken in a case in which an evidentiary hearing was held, it is the duty of the appellant to order a transcript of the proceedings. Three copies must be ordered for the supreme court and one copy must be ordered for each party separately represented. The order must be filed with the clerk of the trial court and must be for a complete transcript of the proceedings, unless a stipulation is obtained from all affected parties specifying portions which are not required for the purposes of the appeal. Within three days of filing, the clerk shall transmit the order to the person designated by the trial court to prepare the transcript. If a party affected by the appeal unreasonably refuses to stipulate to exclude from the transcript portions of the record not necessary to the resolution of issues raised by the appellant, the party proposing the stipulation may apply to the trial court for an order requiring the refusing party to pay for the unnecessary portions of the transcript and reasonable attorney's fees for making the application. The order for transcript and a copy of the stipulation of excluded portions, if applicable, must be filed with the clerk of the trial court with the notice of appeal. A party shall include in the order for transcript the following information:

1. Caption of the case;
2. Date or dates of trial;
3. Number of copies required; and
4. Names and addresses of the parties to be served with copies.

(c) Time for Furnishing Transcript; Filing of Transcript; Financial Arrangements.

The transcript must be completed within 50 days after the order for the transcript is filed unless the person preparing the transcript or a party applies for and receives an extension of time under subdivision (d). The person preparing the transcript shall file three copies of the transcript and proof of service of other copies of the transcript with the clerk of the supreme court. The other copies must be served on parties designated in the order for transcript. The person preparing the transcript shall also file a 3.5 inch computer diskette of the transcript, or electronically transmit the transcript to the clerk of the supreme court. In an appeal of the determination of an administrative agency, the agency shall file a diskette of the transcript or electronically transmit the transcript to the clerk of the supreme court unless the agency certifies the transcript was not prepared on a computer or word processor. All electronic transcripts shall contain in a single file all the information contained in the paper transcript, including cover, table of contents, and certifications, in the same order as in the paper transcript. The electronic transcript must include fixed line number and page numbers corresponding to those in the paper transcript.

If demanded by the person preparing the transcript, the appellant or a party obliged by an order of the court under subdivision (b) to pay for the transcript or a portion thereof



43 shall advance the payment of his portion of the estimated cost of any transcript ordered,  
44 provided a written estimate of the amount and a demand for payment is served on any  
45 obligated party within 10 days after receipt of the order for transcript or an order of the trial  
46 court under subdivision (b). Failure to furnish a written estimate and make a timely demand  
47 for payment waives the right to demand advance payment. No advance payment is required  
48 if the transcript is to be paid for by the state or any agency or subdivision thereof. If an  
49 obligated party fails to make the advance payment within 10 days after service of the  
50 demand, the person preparing the transcript may suspend preparation of the transcript until  
51 payment is made.

52 (d) Extension of Time. If the person preparing the transcript is unable to complete  
53 and file the transcript within 50 days after the order for transcript is filed, the trial court for  
54 good cause shown may extend the time for completion of the transcript.

55 If preparation of the transcript has been suspended for failure of any party to make  
56 a timely advance payment upon demand, the party responsible for the delay, for good cause  
57 shown, may move the trial court for an extension of time in which to file the transcript, on  
58 such terms as the court may order.

59 A request for extension must be made within the time originally prescribed or within  
60 an extension previously granted, but the trial court may not extend the time to more than 90  
61 days from the date of the filing of the first notice of appeal. If the trial court is without  
62 authority to grant that relief sought or has denied a request therefor the supreme court may  
63 on motion for good cause shown extend the time for completion of the transcript to be filed

64 after the expiration of the time allowed or fixed. If the request for extension of time for  
65 completion of the transcript has been previously denied, the motion must set forth the denial  
66 and must state the reasons therefor, if any were given.

67 (e) Form of Transcript. Each transcript must conform to the requirements of Rule  
68 Rules 31(b)(2) and 32 except as otherwise provided in this rule. Lines must be numbered  
69 on the left margin, and each page may not contain more than 27 lines or less than 25 lines.  
70 The left margin may not be more than 1 3/4 inches wide, and the right margin may not be  
71 more than 3/8 inches wide. Each question and answer must begin on a new line, and an  
72 indentation for a new speaker or paragraph may not be more than 10 spaces from the left  
73 margin. Each volume must be indexed as to every witness and exhibit, and each page must  
74 be numbered consecutively. The accuracy of the transcript must be certified by the person  
75 preparing the transcript.

76 (f) Statement of the Evidence or Proceedings if No Verbatim Record Was Made or  
77 Transcript Is Unavailable. If no verbatim record of the evidence or proceedings at a hearing  
78 or trial was made or a transcript is unavailable, the appellant may prepare a statement of the  
79 evidence or proceedings from the best available means, including his recollection. The  
80 statement must be served on the appellee, who may serve objections or propose amendments  
81 thereto within 10 days after service. Thereupon the statement and any objections or  
82 proposed amendments must be submitted to the trial court for settlement and approval and,  
83 as settled and approved, must be filed with the clerk of the supreme court by the appellant  
84 within 60 days after the notice of appeal is filed.

(g) Agreed Statement as the Record on Appeal. In lieu of the record on appeal as defined in subdivision (a), the parties may prepare and sign a statement of the case showing how the issues presented by the appeal arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the statement conforms to the truth, it, together with any additions the trial court may consider necessary to present the issues raised on appeal, shall be approved by the trial court and shall then be certified to the supreme court as the record on appeal and transmitted thereto by the clerk of the trial court within the time provided by Rule 11.

(h) Correction or Modification of the Record. If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the trial court either before or after the record is transmitted to the supreme court, or the supreme court, on proper suggestion or of its own initiative, may direct that the omission or misstatement be corrected, and, if necessary, that a supplemental record be certified and transmitted. All other questions as to the form and content of the record shall be presented to the supreme court.

#### EXPLANATORY NOTE

Rule 10 was amended, effective 1978; March 1, 1986; January 1, 1995; March 1,



1998; March 1, 1999; March 1, 2001; technical amendments effective August 1, 2001.

Rule 10 was amended, effective January 1, 1995. The amendment allows a transcript to be prepared and certified from an electronic recording by someone other than the operator of recording equipment or court reporter.

SOURCES: Joint Procedure Committee Minutes of April 26-27, 2001, pages 8-9; January 30, 1997, pages 9-10; September 26-27, 1996, page 18; April 28-29, 1994, pages 3-4; January 27-28, 1994, page 18; September 23-24, 1993, pages 20-21; March 28-29, 1985, pages 13-14; November 29, 1984, pages 5-6; May 25-26, 1978, pages 7-8; March 16-17, 1978, pages 1, 2, 9-13; January 12-13, 1978, pages 14-15; October 27-28, 1977, pages 2-3; September 15-16, 1977, pages 5-8, 16-18; June 2-3, 1977, pages 2-4. Fed.R.App.P. 10.

STATUTES AFFECTED:

SUPERSEDED: N.D.C.C. §§ 28-18-04, 28-18-05, 28-18-06, 28-18-07, 28-18-08, 28-27-07, 28-27-33, 29-23-01, 29-23-02, 29-23-03, 29-23-04, 29-23-08, 29-23-09.

CROSS REFERENCE: N.D.R.App.P. 3 (Appeal as of Right--How Taken), N.D.R.App.P. 7 (Bond for Costs on Appeal in Civil Cases), N.D.R.App.P. 11 (Transmission and Filing of the Record), and N.D.R.App.P. 12 (Docketing the Appeal).

RULE 31. FILING AND SERVICE OF BRIEFS

(a) Time for Serving and Filing Briefs; Where Filed. The appellant shall serve and file appellant's brief within 40 days after the date on which the transcript is filed but, if no transcript is ordered, within 40 days after the notice of appeal is filed. The appellee shall serve and file appellee's brief within 30 days after service of the brief of the appellant. The appellant may serve and file a reply brief within 14 days after service of the brief of the appellee; however, if there is less than 14 days before oral argument the reply brief must be filed at least 3 days before argument. All briefs must be filed with the clerk of the supreme court.

(b) Number of Copies to Be Filed and Served.

(1) Each brief must be served and filed as follows:

(A) One copy of each brief must be served on counsel for each party separately represented.

(B) Seven bound copies and an unbound original of each brief must be filed with the clerk of the supreme court.

(C) One electronic copy of each brief must be filed with the clerk of the supreme court on a 3.5 inch diskette, or electronically transmitted to the clerk of the supreme court, unless the filing party certifies the brief was not prepared on a computer or word processor. All electronic copies of briefs shall contain in a single file all information contained in the paper brief, including cover, table of contents, and certifications, in the same order as in the

22 paper brief.

23 (2) The diskette must be formatted in WordPerfect; or, if WordPerfect is not  
24 available, Microsoft Word; or, if Microsoft Word is not available, ASCII; or other  
25 compatible electronic language authorized by the clerk of the supreme court. The diskette  
26 must contain a label indicating:

27 (A) the title and docket number of the case;

28 (B) the name of the document contained on the diskette; and

29 (C) the language format of the document.

30 (c) Consequence of Failure to File Briefs. If an appellant fails to file a brief within  
31 the time provided by this rule, or within the time as extended, an appellee may move for  
32 dismissal of the appeal. If an appellee fails to file an appropriate brief, sanctions may be  
33 imposed under Rule 13 which may include refusal to be heard at oral argument.

#### 35 EXPLANATORY NOTE

36 Rule 31 was amended, effective January 1, 1988; March 1, 1997; March 1, 1999;  
37 March 1, 2001; technical amendments effective August 1, 2001.

38 SOURCES: Joint Procedure Committee Minutes of April 26-27, 2001, page 9;  
39 September 28-29, 1995, page 12; May 21-22, 1987, page 17; February 19-20, 1987, page  
40 8; September 18-19, 1986, pages 2, 20; May 25-26, 1978, page 17; October 27-28, 1977,  
41 pages 6-7; September 15-16, 1977, pages 13-14. Fed.R.App.P. 31.

42 CROSS REFERENCE: N.D.R.App.P. 26(b) (Enlargement of Time), N.D.R.App.P.



43 28 (Contents of Briefs; Briefs Involving Cross-Appeals), N.D.R.App.P. 30 (Appendix), and  
44 N.D.R.App.P. 32 (Form of Briefs).

1           RULE 32. FORM OF BRIEFS, THE APPENDIX AND OTHER PAPERS

2  
3           All papers filed in the supreme court must be typewritten, printed, or reproduced by  
4 a process that produces a clear black image on white paper. Pages must be 8 ½ by 11 inches.

5           Proportionately spaced typeface or monospaced typeface may be used which  
6 conforms to the following specifications:

7           1. If proportional spacing is used, the typeface must be no smaller than a 12 point font  
8 with no more than 16 characters per inch. The text must be double-spaced, except  
9 quotations may be single-spaced and indented. Footnotes may be single-spaced and must  
10 be in the same typeface as the text of the brief.

11           2. If monospaced typeface is used, the typeface must be a 12 point font having 10  
12 characters per inch. The text, including quotations, and footnotes must be double-spaced  
13 with no more than 27 lines of type per page.

14           Margins must be at least one and one-half inch at the left and at least one inch on all  
15 other sides. Briefs, appendices, and petitions for rehearing must be bound separately at the  
16 left-margin; but not with staples, slide-lock or slide-grip bindings.

17           All pages must be numbered at the bottom. Copies of papers reproduced in the  
18 appendix may be informally renumbered if necessary. Carbon copies will not be accepted.

19           The cover of the appellant's brief must be blue; the appellee's and cross-appellant's  
20 brief, red; an intervenor's or amicus curiae brief, green; a cross-appellee's and any reply  
21 brief, gray. The cover of the appendix must be white. Covers of petitions for rehearing

must be the same color as the principal brief.

The front covers of the briefs, appendices, and petitions for rehearing, must contain:

1. the name of the court and the number of the case;

2. the title of the case (see Rule ~~12(a)~~ 3(d));

3. the nature of the proceeding below (e.g., Appeal from Order Denying Summary Judgment), and the name of the court, agency, or board below;

4. the title of the document (e.g., Brief for Appellant, Appendix); and

5. the names and addresses of counsel representing the party on whose behalf the document is filed.

All other papers addressed to the court must contain a caption setting forth the name of the court, the title of the case, the file number, and a brief descriptive title indicating the purpose of the paper. Consecutive sheets must be attached at the left margin.

Papers not in compliance with this rule will not be filed.

#### EXPLANATORY NOTE

Rule 32 was amended, effective March 1, 1996; amended effective September 11, 1996, subject to comment. The amendments, regarding font and characters per inch for proportional typeface, are technical in nature. Final adoption on October 23, 1996. Amended effective, August 1, 2001.

SOURCES: Joint Procedure Committee Minutes of April 26-27, 2001, page 8; April 27-28, 1995, pages 15-17; May 25-26, 1978, pages 17-18; January 12-13, 1978, pages



43 20-22. ~~Rule 32~~, Fed.R.App.P. 32, §§ 3.13(e) and 3.31, ABA Standards Relating to  
44 Appellate Courts (Approved Draft, 1977).

45 STATUTES AFFECTED:

46 SUPERSEDED: N.D.C.C. § 29-28-19.

47 CROSS REFERENCE: ~~Rule~~ N.D.R.App.P. 27 (Motions).

1                   RULE 8.5 DOMESTIC RELATIONS SUMMARY PROCEEDINGS

2  
3                   (a) Definition and Application.

4                   (1) A summary proceeding may be used by parties to settle a controversy, dispose of  
5 a case, or conduct a trial where a party seeks an order, judgment, or amended judgment,  
6 otherwise in accordance with chapters 14-04, 14-05, ~~14-06~~, and 14-09, N.D.C.C.

7                   (2) A summary proceeding may be used when the combined net assets of the parties  
8 do not exceed a fair market value of ~~ten~~ twenty thousand dollars, exclusive of the  
9 homestead, as defined in N.D.C.C. § 47-18-01.

10                  (b) Beginning of Action--Petition--Summons--Plaintiff's Financial Affidavit. An  
11 action filed under this rule begins when any person signs and files with the court a petition  
12 and financial affidavit, and serves the petition and financial affidavit on the defendant along  
13 with a summons and order for appearance setting a hearing. The initial hearing must be held  
14 not less than 10 days, nor more than 40 days after service of the order by the plaintiff on the  
15 defendant.

16                  (c) Answer--Defendant's Financial Affidavit--Further Relief. The defendant shall  
17 serve and file an answer and financial affidavit at least 2 days before the initial hearing, but  
18 no later than 20 days after service of the order for appearance, or defendant shall be  
19 considered in default. The defendant may set forth any new matter in the answer and request  
20 further relief.  
21

22 (d) Case Not Suitable for Disposition by Summary Proceeding. Either party may  
23 elect to use a non-summary proceeding, without a showing of cause, by filing a notice of  
24 election no later than 15 days before the final hearing. If the court decides, based upon the  
25 complexity of factual or legal issues, at any stage of the proceeding that the case may not be  
26 fairly disposed of under this rule, it may order that the action be decided by the use of a  
27 non-summary proceeding.

28 (e) Hearing Procedures.

29 (1) Any Hearing of the Action Must Be Informal. The court must conduct the  
30 hearings and may make its own inquiry during the hearings. The hearings must be of record  
31 and all testimony must be under oath or affirmation. A trial by jury is not permitted and  
32 attorneys may participate. Attorney's fees and costs may be assessed as provided by law.  
33 The rules of evidence do not apply to a summary proceeding.

34 (2) The Court Shall Hold the Initial Hearing With Both Parties Present. No interim  
35 order may issue except upon notice and hearing unless the court specifically finds  
36 exceptional circumstances as set forth in N.D.R.Ct. 8.2. No ex parte interim order may be  
37 issued unless the movant executes an affidavit setting forth specific facts justifying the  
38 issuance of the order. A restraining and eviction order may not be issued ex parte unless the  
39 movant also appears personally and good cause is shown for issuance of the order.

40 The provisions which may be included in an ex parte interim order are temporary  
41 custody, support and other appropriate expenses, use of real or personal property, restraining  
42 and eviction.



43 A hearing must be scheduled within 14 days of the issuance of the interim order. The  
44 party obtaining the ex parte interim order must secure a hearing date and serve the interim  
45 order and the order for appearance on the adverse party.

46 The initial hearing, whether in response to an ex parte interim order or otherwise,  
47 must be conducted by the court to afford such temporary relief to the parties and the minor  
48 children as provided in N.D.R.Ct. 8.2(b).

49 (3) The Court Shall Schedule a Final Hearing Within 60 Days After the Initial  
50 Hearing to Decide the Issues of Law and Fact. The hearing may be continued as necessary.  
51 The court may utilize any services for the protection of persons and property that are  
52 available in a non-summary proceeding, including appointment of a guardian ad litem,  
53 mediator, or referee. The costs of services may be assessed as provided by law against the  
54 parties in the proportion as the court determines just and equitable.

55 (4) There Will Be No Formal Discovery. At the initial hearing, or at any subsequent  
56 time, the court shall specify information to be furnished in addition to the financial affidavit.

57 (5) Mediation, or other nonadversarial methods, should be used when appropriate as  
58 a means of resolving disputes.

59 (f) Judgment or Order. Based upon the evidence presented, the court shall issue a  
60 written judgment or order indicating its decision in all cases begun under this rule. A  
61 judgment or order may be entered without the appearance of either party at the final hearing.  
62 The court may utilize all powers available to a district court which are not in conflict with  
63 this rule. The court shall make findings of fact and conclusions of law in writing or orally

64 and recorded in open court.

65 (g) Appeal. An appeal to the North Dakota Supreme Court may be taken by a party  
66 as in any civil action.

67 (h) Term. The implementation of this proceeding is extended to ~~October 1, 2001~~  
68 March 1, 2003. ~~Upon consultation with the presiding judge from the Northeast Central~~  
69 ~~Judicial District and the presiding judge from at least one other judicial district, the Supreme~~  
70 ~~Court shall designate the judges who will use the proceeding. During the period of~~  
71 ~~extension, the Court will consider statewide implementation of the proceeding. The~~  
72 ~~presiding judge of each judicial district may designate one or more judges or referees who~~  
73 will use the proceeding.

#### 75 EXPLANATORY NOTE

76 Rule 8.5 was initially adopted, effective October 1, 1996, as a pilot project in two  
77 judicial districts; and amended March 26, 1998, to remain in effect until October 1, 1999.  
78 ~~On September 29, 1999, the Supreme Court amended the rule to extend the implementation~~  
79 ~~period to October 1, 2001, and to consider statewide implementation of the proceeding.~~  
80 Subdivision (h) was amended, effective August 1, 2001, to permit the presiding judge of  
81 each judicial district to designate one or more judges or referees to use the proceeding.

82 . SOURCES: Joint Procedure Committee Minutes of April 26-27, 2001, pages 6-8;  
83 September 28-29, 1995, pages 11-12.