

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

NOTICE OF COMMENT

Supreme Court No. 20200229

**Proposed Amendments to the North Dakota Rules of Civil Procedure,
North Dakota Rules of Criminal Procedure, North Dakota Rules of
Evidence, North Dakota Rules of Appellate Procedure, North Dakota
Rules of Court, North Dakota Supreme Court Administrative Rules,
and North Dakota Rules of Juvenile Procedure**

[¶1] On August 27, 2020, the Joint Procedure Committee submitted proposed amendments to the North Dakota Rules of Civil Procedure, North Dakota Rules of Criminal Procedure, North Dakota Rules of Evidence, North Dakota Rules of Appellate Procedure, North Dakota Rules of Court, North Dakota Supreme Court Administrative Rules, and North Dakota Rules of Juvenile Procedure. On November 25, 2020, the Court adopted certain rules, denied amendments to one rule, and remanded N.D.R.Civ.P. 54, N.D.R.Crim.P. 32.1, N.D.R.Ct. 3.2, and N.D.R.Civ.P. 54 to the Joint Procedure Committee for further review.

[¶1] On March 22, 2021 the Joint Procedure Committee submitted proposed amendments to N.D.R.Ct. 3.2. The proposal is available at <https://www.ndcourts.gov/supreme-court/dockets/20200229>. Individuals who do not have internet access may contact the Office of the Clerk of the Supreme Court to obtain a copy of the proposal.

[¶2] **IT IS ORDERED**, any person wishing to comment on the proposed amendments to N.D.R.Ct. 3.2 may do so by email to Petra H. Mandigo Hulm, Clerk of the Supreme Court, at supclerkofcourt@ndcourts.gov or in writing addressed to 600 E. Boulevard Ave., Bismarck, ND 58505-0530, no later than **June 21, 2021**.

[¶3] The Supreme Court of the State of North Dakota, with the Honorable Jon J. Jensen, Chief Justice, and the Honorable Gerald W. VandeWalle, the Honorable Daniel J. Crothers, the Honorable Lisa Fair McEvers, the Honorable Jerod E. Tufte, Justices, directing the Clerk of the Supreme Court to enter the above order.

Dated: May 20, 2021

/s/ Petra H. Mandigo Hulm
Clerk
North Dakota Supreme Court

RULE 3.2 MOTIONS

(a) Submission of Motion.

(1) Notice. Notice must be served and filed with a motion. The notice must indicate the time of the hearing, whether the hearing is for presenting evidence, oral argument, or both, or that the motion will be decided on briefs unless ~~oral argument~~ a hearing is timely requested.

(2) Briefs. Upon serving and filing a motion, the moving party must serve and file a brief and other supporting papers and the opposing party must have 14 days after service of a brief within which to serve and file an answer brief and other supporting papers. The moving party may serve and file a reply brief within seven days after service of the answer brief. Upon the filing of briefs, or upon expiration of the time for filing, the motion is considered submitted to the court unless counsel for any party requests oral argument on the motion.

(3) Requesting ~~oral argument~~ a hearing. If any party who has timely served and filed a brief requests ~~oral argument~~ a hearing, the request must be granted. A timely request for ~~oral argument~~ a hearing must be granted even if the moving party has previously served notice indicating that the motion is to be decided on briefs. The party requesting ~~oral argument~~ a hearing must secure a time for the ~~argument~~ hearing and serve notice upon all other parties. Requests for ~~oral argument a hearing or the taking of evidence~~ must be made not later than seven days after expiration of the time for filing the answer brief. If the party requesting ~~oral argument~~ a hearing fails within 14 days of the request to secure a time for the ~~argument~~ hearing, the request is waived and the matter is considered submitted for decision on the briefs. If an evidentiary hearing is requested in a civil action, notice must be served at least 21 days before the time specified for the hearing.

(4) Self-Represented Prisoner. A self-represented prisoner who requests a hearing is not required to secure a time for the hearing. Instead, the prisoner's notice must include the request for oral argument, an evidentiary hearing, or both, and a statement that the party is a self-represented prisoner. On receipt

of a prisoner's notice, the court will set a time for the hearing and serve notice to the parties.

(b) Court hearing. The court may ~~hear oral argument~~ set a hearing on any motion. If permitted by the court, a hearing may be held using contemporaneous audio or audiovisual transmission by reliable electronic means. After reviewing the parties' submissions, the court may require oral argument and may allow or require evidence on a motion.

(c) Failure to File Briefs. Failure to file a brief by the moving party may be deemed an admission that, in the opinion of party or counsel, the motion is without merit. Failure to file a brief by the opposing party may be deemed an admission that, in the opinion of party or counsel, the motion is meritorious. Even if an answer brief is not filed, the moving party must still demonstrate to the court that it is entitled to the relief requested.

(d) Extension of Time. Extensions of time for filing briefs and other supporting papers, or for continuance of the hearing on a motion, may be granted only by written order of court. All requests for extension of time or continuance, whether written or oral, must be accompanied by an appropriate order form.

(e) Time Limit for Filing Motion. Except for good cause shown, a motion must be filed in such time that it may be heard not later than the date set for pretrial of the case.

(f) Application of Rule.

(1) Conflicting rules. This rule does not apply to the extent it conflicts with another rule adopted by the Supreme Court.

(2) Probate code. This rule applies to formal proceedings under Uniform Probate Code.