

# HENNEPIN COUNTY

## MINNESOTA

### INSTRUCTIONS FOR CONDUCTING LAND REGISTRATION (TORRENS) PROCEEDINGS IN HENNEPIN COUNTY

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#### Contact

##### Examiner of Titles

Office: 612-348-3191

[Ex.Titles@hennepin.us](mailto:Ex.Titles@hennepin.us)

#### Website

[hennepin.us](http://hennepin.us)

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## INSTRUCTIONS FOR CONDUCTING LAND REGISTRATION (TORRENS) PROCEEDINGS IN HENNEPIN COUNTY

Forms and Instructions referenced in this document are available on the Hennepin County Examiner of Titles [website](#).

### LAND REGISTRATION PROCEDURES

Land in Minnesota may be brought into the Certificate of Title system either:

1. by a Decree of the District Court issued pursuant to Minn Stat Ch [508](#) (land title registration by court proceedings); or
2. by a Directive of the Examiner of Titles (possessory land title registration procedure) in counties which have adopted Minn Stat Ch [508A](#).

This instruction manual deals with land title registration by court proceedings (also called initial registration or original registration.)

### REGISTRATION BY COURT PROCEEDINGS

#### SECTION 1: OVERVIEW

The following sequence of events occurs in registration proceedings in District Court:

1. The proceedings are initiated by the filing of an **Application**.
2. The Applicant files an **Abstract** of title.
3. The Examiner of Titles issues a **Report** listing the persons who should be joined as defendants in the matter.
4. A **Land Title Summons** is issued, published, and served on the defendants.
5. A **Hearing** is held, after which the Court issues its **Order and Decree of Registration**.
6. A certified copy of the Order and Decree of Registration is filed with the Registrar of Titles who issues a **Certificate of Title**.

## SECTION 2: THE APPLICATION

The Application must contain the information required by Minn Stat § [508.03](#). The Hennepin County Examiner of Titles office provides Application forms for (a) Individual (b) Joint Tenants (c) Business Entity applicants. The following suggestions apply to all the forms.

**1. Name as Applicants all the fee owners of the land being registered.**

The Applicant may be the record owner of the land or may be a person having a claim of title based on such matters as adverse possession, unrecorded deed or inheritance.

Owners of separate tracts of land may join in one application. Minn Stat § [508.08](#), Subd 2.

**2. Insert a “good” description in the Application.**

An ambiguous or indefinite description should not be used in the Application even if it has appeared in deeds in the Applicant’s chain of title.

It may be advisable to request the assistance of the Examiner of Titles in preparing the form of the description before submitting the signed Application. The Examiner may suggest or require that a survey of the property be submitted in certain cases. Minn Stat § [508.11](#).

If the land is described by metes and bounds and borders on a public road, consider using the center line of the road as a boundary line.

The description cannot conflict with the description of adjoining registered (Torrens) land.

Any number of tracts of land owned by the same person may be included in one application. Minn Stat § [508.08](#), Subd 1.

**3. State whether the Applicant wishes to have the boundary lines adjudicated in the proceeding and marked by the placement of judicial landmarks.**

Include in the Application the names of owners, post office addresses, and legal descriptions of all adjoining registered and abstract parcels affected by the boundary registration. It is not practical to monument certain boundary lines, such as shore lines. It is generally unnecessary to mark public land survey section lines since the corners of sections in Hennepin County have been relocated and monumented pursuant to Minn Stat § [381.12](#).

For more information on adjudicating boundaries, see:

- a) Instruction sheet entitled “[Survey Requirements for Boundary Registration](#)”
- b) Minn Gen R Prac Rule [211](#) and Minn Stat § [559.25](#)
- c) [Section 8](#): The Hearing (below)

**4. Consider including the written assent of any person having an interest or claim in the land being registered.**

The assenting person will not have to be served with the summons in the matter.

The Assent must be acknowledged. Minn Stat § [508.06](#).

The Individual Application form provides a place for the Assent of the Applicant's spouse.

**5. If the Applicant is not a resident of Minnesota.**

Prepare an Appointment of Agent for Non-resident Applicant, obtain the Applicant's acknowledged signature and file the document with the County Recorder. Minn Stat § [508.07](#).

**6. Deliver the executed Application to the Examiner of Titles for approval, and then file the approved Application.**

If the Applicant has a survey, please include the survey when submitting the Application for approval. The Examiner reviews the legal description and contents of the Application for compliance with the statutory requirements and indicates on the Application that it is "approved" for filing.

a) The Applicant's attorney e-files the approved Application with the Court. Do not e-file a survey, unless instructed to file it. To e-file, select the Hennepin Examiner of Titles e-filing queue and pay the civil filing fee. **The attorney must also add his/her name as a service contact on the case in eFS** (the court's eFile and eServe system.)

If the Applicant is not represented by an attorney, the Applicant is not required to e-file. Please contact the Examiner of Titles office for information on alternative filing procedures.

b) The Applicant mails or delivers to the Examiner of Titles office a check **payable to "County Recorder"** in the amount of \$46.00 and a check for a certified copy of the Order **payable to "District Court Administrator"** in the amount of \$14.00.

c) The Deputy Court Administrator in the Examiner's office makes a certified copy of the Application and delivers the copy with the \$46.00 check to the County Recorder for filing. Minn Stat § [508.11](#).

## SECTION 3: THE ABSTRACT

The abstract must be e-filed into the court file. Minn Stat § [508.11](#) and Minn Gen R Prac Rule [14.01](#) (b)(1). **In addition, a paper version of the abstract should be delivered to the Examiner of Titles as a working copy.**

The required contents of the abstract are specified in Minn Gen R Prac Rule [203](#). Questions about abstracting requirements may be directed to the examiner who approved the application. The examiner may have suggestions to reduce abstracting costs.

The abstract should be certified to the legal description shown at paragraph C of the Application.

Once the Application is filed in the office of the County Recorder, continue the abstract to show the filing of the application, unless the examiner indicates otherwise. A certificate of searches made in accordance with [Minnesota Title Standard](#) No. 82 must be in the abstract or filed separately, as against the names of persons who have an interest or estate in the land through the date of filing of the Application with the County Recorder.

## SECTION 4: THE EXAMINER'S REPORT

After the abstract has been e-filed, the Examiner of Titles will conduct an examination and issue a report. The Report will include the Examiner's opinion on the title, the names of parties to be made defendants, and recommended evidence and findings to establish title in the Applicant. The Report is filed in the court file and served on the Applicant's attorney through eFS. Minn Stat § [508.13](#). Minn Gen R Prac Rule [205](#).

## SECTION 5: THE LAND TITLE SUMMONS

The procedures for issuance of a Summons in a registration proceeding are governed by Minn Stat §§ [508.15](#) and [508.16](#), and are different from typical civil proceedings. The Hennepin County Examiner of Titles office provides forms for (a) Petition and Order for Summons (b) Land Title Summons and (c) Affidavit in Support of Petition for Summons.

### **1. Determine the names and addresses of all defendants for inclusion in the Petition and Order for Summons.**

The Report of Examiner lists defendants by name. Minn Stat § [508.15](#) requires that the names and addresses of defendants be included in the Order for Summons. Make a diligent search for current addresses.

Minn Stat § [508.16](#) distinguishes between residents and non-residents for method of service. Non-residents are served by publication and by mailed notice sent by the court administrator. The address for a non-resident is very important and listing more than

one address may be appropriate. A foreign corporation's address is the corporate headquarters and should always be included in the Order for Summons. A registered agent address per the Secretary of State office where the entity is incorporated could be listed as an additional out-of-state address. A resident's address is required, but the resident may be served at any location within Minnesota, by personal service.

Minn. Stat. § [508.16](#) provides an alternative method of service on non-residents, which is personal service on the non-resident at a Minnesota location. As a non-resident, a foreign corporation may be served in Minnesota if an officer (e.g. President or CEO) or registered agent is found in Minnesota for personal service. If you intend to serve a foreign corporation in Minnesota, list the Minnesota address in the Order for Summons. If a foreign corporation has a registered agent in Minnesota, serving the Minnesota registered agent is recommended.

If a person or entity has changed its name, substitute the current name. If a person named in the Report is deceased, substitute the person's heirs, as determined by a Probate Court. However, if there has not been a court determination of heirs, conduct a diligent search to locate heirs at law, and substitute their names and addresses in lieu of the decedent's name. Also include as a defendant "the unknown heirs of \_\_\_\_\_, deceased" (with address unknown) if there is no court determination of heirs.

Do not presume that a person is deceased. If the address of a person, even a person whose interest dates back many years, cannot be ascertained, state the address as "unknown" unless you have evidence that the person is deceased.

The Report of Examiner may also direct the Applicant to "ascertain names" and list them as defendants in the Summons. For example, the Report may name as defendants "occupants of the land adjoining to the west" or "parties using the utility easement." Determine the actual names and addresses and list those in the Petition and Order for Summons. If you are concerned that additional unidentified parties may be occupying the property, you may also include the phrase "any other occupants of \_\_\_\_\_ (insert address or legal description of the adjoining land)" in the Petition and Order for Summons. If the process server finds other parties occupying the property who were not named in the Summons, the affidavit of service should specify the name of the person served and that he/she is "an occupant of \_\_\_\_\_ (address or legal description)."

The Applicant must also include in the Petition and Order for Summons the names and addresses of other parties the Applicant deems to be necessary defendants. Minn Stat § [508.15](#).

On the Petition and Order for Summons, list each defendant's name and address individually, even if two or more defendants are married or related to each other or have the same address.

Sign and verify the Petition for Summons. The Petition is executed by the Applicant's attorney (not by the Applicant).

**2. Prepare and File an Affidavit in Support of Summons.**

The Examiner's office provides a form "Affidavit in Support of Summons." E-file the Affidavit in Support of Summons, and any supporting documentation. Documentation containing confidential information (like a death certificate) should be filed separately from the Affidavit.

The Affidavit and supporting documentation provide evidence that the correct parties are listed in the Petition and Order for Summons. The Affidavit should address any substitution, omission, or addition of defendants. For example, if Bank One is a defendant in the Report of Examiner, but Bank One merged into Bank Two, the Affidavit should explain why Bank Two was substituted for the named defendant, and include document numbers of recorded name change documents, or other evidence.

**3. Prepare the Land Title Summons.**

List the names of the defendants and insert the description of the land from paragraph 1 in the Report of Examiner.

The defendants' names should be listed sequentially as they appear in the Order for Summons and be separated by semicolons. The defendants' addresses are not included in the Land Title Summons.

**4. Deliver the Petition and Order for Summons and the Land Title Summons to the Examiner of Titles office for approval.**

Do not efile the Petition and Order for Summons and Land Title Summons. After the Petition and Order for Summons has been approved, the Court Administrator will obtain a judge's signature on the Order for Summons and file the Petition and Order for Summons. The Court Administrator will issue the Land Title Summons and serve it on the Applicant's attorney via eFS. Note: To receive documents via eFS, the applicant's attorney must add him/herself as a service contact in the case.

## SECTION 6: SERVICE OF PROCESS

Notice is given and jurisdiction is obtained in a registration proceeding by service of the Land Title Summons. The time to Answer is 20 days. The Application is not served (except in the case of service on the United States). Minn Stat § [508.16](#).

**Service requirements are set out in Minn Stat § [508.16](#) and differ from other civil actions.**

Publication is required in every case. Specific requirements and issues are addressed by defendant type.

1. [Publication of the Land Title Summons](#)

Publish the Land Title Summons once a week for 3 successive weeks in a legal newspaper in the county where the land is located. Minn Stat § [508.16](#).

Service by publication is complete 21 days after the first publication. Rule 4.04(a), Minn. R. Civ. P. The deadline to Answer is 41 days after the first date of publication.

2. [Service on Non-resident Defendants](#)

Service is by publication. In addition, the court administrator mails a copy of the summons to the address in the Order for Summons. The Hennepin County Examiner of Titles office provides a form for “Notice to Court Administrator to Mail Summons.”

Prepare a “Notice to Court Administrator to Mail Summons” form. List the names and addresses of the defendants shown on the Order for Summons as having addresses outside of Minnesota.

Sign the Notice form and submit it to the Deputy Court Administrator in the Examiner of Titles office, along with (a) separate, stamped envelopes addressed to each non-resident defendant and (b) copies of the Land Title Summons (usually the newspaper clippings of the Land Title Summons provided by the newspaper publisher) for each envelope.

The Court Administrator will deposit the envelopes in the mail, complete the Certificate of Mailing on the Notice form, and file it in the court file. The deadline to Answer is 23 days after the Court Administrator mails the Land Title Summons.

Minn Stat § [508.16](#) provides two additional options for serving an individual whose is not a resident of Minnesota. The non-resident may be personally served in Minnesota. A non-resident defendant may be personally served outside of Minnesota, *but only if* the Order for Summons so directs. Consult the examiner before preparing the Order for Summons if personal service out-of-state is intended.

3. [Service on Resident Individuals](#)

Serve individuals who are residents of Minnesota either:

(a) personally, in accordance with Rule [4.03](#) (a), Minn R Civ P, or

(b) by mail, in accordance with Rule [4.05](#), Minn R Civ P.

Minn Stat § [508.16](#).

Not Found: If a person is a Minnesota resident, but cannot be found in the state for service, service is by publication. If your due and diligent search for a resident discovers information about the location of the resident outside Minnesota, consult the examiner. A Supplemental Order for Summons permitting mailing to a seasonal or temporary out-of-state address or permitting personal service out-of-state may be appropriate. If you determine that the person has moved permanently and is no longer a Minnesota resident, a Supplemental Petition for Summons and Supplemental Order for Summons including the new address must be submitted.

#### 4. Service on Legal Entities

##### *Non-Minnesota entity*

A non-Minnesota entity may be served by publication and mailing by the court administrator to the out-of-state address in the Order for Summons. See [#2](#) above regarding “Notice to Court Administrator to Mail Summons,” and [Section 5](#): Land Title Summons.

A non-resident entity that can be found in Minnesota may be served personally in Minnesota. Serve a registered agent, or an officer, manager, or partner found in Minnesota, depending on the entity type. Service may be made on the Minnesota Secretary of State for a foreign corporation authorized to do business in Minnesota, if permitted under Minn Stat § [5.25](#), Subd. 4

##### *Minnesota Corporations*

Serve Minnesota corporations and corporations shown in the Order for Summons as having a Minnesota address by serving:

- (a) the registered agent, if any, as shown on the Secretary of State’s website,
- (b) an officer of the corporation,
- (c) the Secretary of State in accordance with Minn Stat § [5.25](#), or
- (d) a “managing agent or other agent authorized expressly or impliedly or designated by statute to receive service of summons” in accordance with Rule [4.03](#) (c), Minn R Civ P.

Minn Stat § [302A.901](#).

Do not serve a “managing agent” or other “agent” pursuant to Rule [4.03](#) (c) unless evidence of authority of the agent to accept service (e.g. corporate resolution) is filed with the affidavit of service. Merely stating in the affidavit of service that the person is an agent authorized to accept service, or that the person stated he/she is authorized to accept service, is not sufficient.

Service on the Secretary of State under Minn Stat § [5.25](#), Subd 1 (3) is allowed if no agent or officer can be found “at the address on file with the secretary of state.” It is not clear if “address on file” means only the corporation’s registered office address, or includes other addresses shown on the Secretary of State website. If more than one address is shown, affidavits of not found at all addresses should be filed along with the affidavit of service on the Secretary of State.

If service by mail is made under Rule [4.05](#), the acknowledgment of service must be signed by an officer of the corporation.

If a Minnesota corporation’s charter has terminated by dissolution, expiration, or otherwise, service is by delivering a copy of the Summons to a person who held office in the corporation at the time of dissolution who can be found in the state. Minn Stat § [508.16](#).

#### *Minnesota Partnerships or Limited Liability Partnerships*

Serve partnerships shown in the Order for Summons as having a Minnesota address:

- (a) by serving a partner in accordance with Rule [4.03](#) (b), Minn R Civ P,
- (b) by mail in accordance with Rule [4.05](#), Minn R Civ P, or
- (c) in accordance with Minn Stat § [5.25](#).

Minn Stat Ch [323A](#).

If service is made under Rule [4.05](#), the acknowledgment of service must be signed by a partner.

#### *Minnesota Limited Partnerships or Limited Liability Limited Partnerships*

Serve a limited partnership or limited liability limited partnership:

- (a) by serving a general partner in accordance with Rule [4.03](#) (b), Minn R Civ P,
- (b) by mail in accordance with Rule [4.05](#), Minn R Civ P, or

(c) in accordance with Minn Stat § [5.25](#).

Minn Stat §§ [321.0114](#)—[.0117](#).

If service is made under Rule [4.05](#), the acknowledgment of service must be signed by a general partner.

### *Minnesota Limited Liability Companies*

Serve a limited liability company:

- (a) by serving a registered agent,
- (b) by serving a manager,
- (c) by mail in accordance with Rule [4.05](#), Minn R Civ P, or
- (d) in accordance with Minn Stat § [5.25](#).

Minn Stat § [322C.0116](#).

If service is made under Rule [4.05](#), the acknowledgment of service must be signed by a manager.

### *State of Minnesota*

Serve the State of Minnesota:

- (a) by serving the attorney general, a deputy attorney general or an assistant attorney general in accordance with Rule [4.03](#) (d), Minn R Civ P and Minn Stat § [508.16](#), or
- (b) by mailing to the attorney general in accordance with Rule [4.05](#), Minn R Civ P.

If the applicant is challenging the validity of a tax forfeiture or use restrictions or other interests subsequent to the tax forfeiture, see Minn Stat § [284.08](#) regarding service on the County.

If service is made under Rule [4.05](#), the acknowledgment of service must be signed by the attorney general, a deputy attorney general or an assistant attorney general. Contact the Attorney General's office prior to mailing, obtain the name of a specific deputy or assistant attorney general who is willing to sign the acknowledgment and address the envelope to that person.

## *City*

Serve a city:

(a) by serving the chief executive officer (usually the mayor) or the city clerk in accordance with Rule [4.03](#) (e)(2), Minn R Civ P, or

(b) by mail in accordance with Rule [4.05](#), Minn R Civ P.

Do not serve an “assistant” or “deputy” city clerk.

Do not serve someone who says he is authorized to accept service unless you are able to support the affidavit of service with documents establishing that (a) the chief executive officer or city clerk is legally authorized to delegate the responsibility to accept service, and (b) the delegation was made in the manner authorized.

If service is made under Rule [4.05](#), the acknowledgment of service must be signed by the mayor or city clerk.

## *County*

Serve a county:

(a) by serving the chair of the county board, the county auditor or a deputy county auditor in accordance with Rule [4.03](#) (e)(1), Minn R Civ P and Minn Stat § [284.08](#), or

(b) by mail in accordance with Rule [4.05](#), Minn R Civ P.

If service is made under Rule [4.05](#), the acknowledgment of service must be signed by one of the persons listed in the previous sentence.

## *United States*

Service on the United States must be made in accordance with the requirements of federal law:

(a) The Application must set forth with particularity the nature of the interest or lien of the United States. If the interest of the United States involves a lien under the Internal Revenue laws, the Application must include the name and address of the taxpayer whose liability created the lien, the identity of the internal

revenue office which filed the notice of lien, and the date and place the notice was filed.

If the Application does not contain the required information, prepare and file an Amended Application containing the information.

(b) Send 2 copies of the Land Title Summons and 2 copies of the Application (or Amended Application) to the Attorney General of the United States at Washington, D.C. by registered mail or by certified mail.

(c) Serve a copy of the Land Title Summons and a copy of the Application (or Amended Application) on the United States Attorney for the District of Minnesota, or on an Assistant United States Attorney, or on a clerical employee designated by the United States Attorney in a writing filed with the Hennepin County District Court Administrator.

(d) The United States may appear within 60 days after service.

28 USC § [2410](#).

#### *Town*

Serve a town:

(a) by serving the chair of the town board or the town clerk in accordance with Rule [4.03](#) (e)(3), Minn R Civ P, or

(b) by mail in accordance with Rule [4.05](#), Minn R Civ P.

Do not serve an “assistant” or “deputy” town clerk. (See [City](#) for further information.)

If service is made under Rule [4.05](#), the acknowledgment of service must be signed by the chair of the town board or the town clerk.

#### *School District*

Serve a school district:

(a) by serving a member of the school board in accordance with Rule [4.03](#) (e)(4), Minn R Civ P, or

(b) by mail in accordance with Rule [4.05](#), Minn R Civ P.

Do not serve the Superintendent of the school district.

If service is made under Rule [4.05](#), the acknowledgment of service must be signed by a member of the school board.

#### *Other public body*

Serve a public body not enumerated above:

(a) by serving a member of the board or other governing body in accordance with Rule [4.03](#) (e)(5), Minn R Civ P, or

(b) by mail in accordance with Rule [4.05](#), Minn R Civ P.

If service is made under Rule [4.05](#), the acknowledgment of service must be signed by a member of the board.

## SECTION 7: PROOF OF SERVICE

#### *Publication*

Publication is proved by an Affidavit of Publication provided by the printer.

Rule [4.06](#), Minn R Civ P; Minn Stat §§ [600.10](#) and [600.11](#).

#### *Personal Service*

Personal service is proved:

(a) an Affidavit of Service, or

(b) a written Admission of Service.

Rule [4.06](#), Minn R Civ P.

An Affidavit of Service which states that the Land Title Summons was delivered to a person who is identified as the “attorney at law” for the named defendant will generally not be sufficient.

An Affidavit of Service which states that the Land Title Summons was delivered to a person who is identified as “an agent” for the named defendant (with no further information or explanation) will generally not be sufficient.

### *Service by Mail*

Service made in accordance with Rule [4.05](#), Minn R Civ P is proved by a written acknowledgment of service as provided in the rule.

### *Service on the Minnesota Secretary of State*

Service made in accordance with Minn Stat § [5.25](#) is proved by Receipt/Invoice provided by the Secretary of State.

### *Assent to Registration*

At any time during a registration proceeding a defendant may assent to the proceeding in lieu of being served with the Land Title Summons. The Assent must be in writing and must be acknowledged.

Minn Stat § [508.06](#); Minn Stat § [358.66](#).

## SECTION 8: THE HEARING

### *Answers*

If an Answer is filed, see the Examiner of Titles "[Instructions for Contested Registrations](#)."

If an Answer only sets up rights admitted in the Application, the hearing may proceed as in case of default. Rule [209](#), Minn Gen R Prac.

### *Hearing Date*

Default Torrens registration cases are heard by the Examiner of Titles or a Deputy Examiner on the regular Land Title Calendar on Thursdays at 10:00 a.m.

Minn Stat § [508.19](#).

Contact the Examiner of Titles office by e-mail or phone (612-348-3191 press 1) to set the matter on for hearing. Provide the case number and Applicant name.

### *Order and Decree of Registration*

The Examiner of Titles office provides a form Order and Decree of Registration meeting the requirements of Minn Stat § [508.23](#). Prepare a (proposed) Order and Decree of Registration:

- (a) If an Answer has been filed and withdrawn, add to Finding 2 a statement such as: “except the Answer of \_\_\_\_\_ which has been withdrawn.” If other “exceptions” should be added to Finding 2, it may be advisable to request the assistance of the Examiner of Titles in drafting proper wording.
- (b) Insert a numbered Finding to cover each matter as to which a “finding” was recommended in the Examiner’s Report.
- (c) If the Applicant has requested that boundary lines be marked by the placement of judicial landmarks, review the Report of Examiner for additional Findings and Orders to include.
- (d) Paragraph 3 of the Decree portion of the standard form of Order and Decree of Registration is known as the “subject clause.” Insert in the “subject clause” of the Decree the concluding statements recommended in the Examiner’s Report.

### *Torrens Affidavit of Default*

The Examiner of Titles office provides a form for Torrens Affidavit of Default and Court Administrator’s Certificate of No Answer. Rule [207](#), Minn Gen R Prac.

Prepare a Torrens Affidavit of Default after the time for Answering for all defendants has expired.

If an Answer has been filed and withdrawn, add to the Affidavit a statement such as: “except the Answer of \_\_\_\_\_ which has been withdrawn.”

If other “exceptions” should be added to the Affidavit, it may be advisable to request the assistance of the Examiner of Titles in drafting proper wording.

Defendants are in default when all the following times have expired:

- 41 days after the first date of publication;
- 20 days after the last day of personal service on a Defendant residing in the state;
- 23 days after the last day the Court Administrator mailed a copy of the Summons to a Defendant who is a non-resident of the state;
- 30 days from the date of mailing by the Secretary of State. Minn Stat § [5.25](#), Subd 7;

- 60 days after service upon the United States of America or any of its agents and officers.

### *Submit Papers for the Hearing*

At least 7 business days before the hearing, e-file the following:

- (a) an Affidavit of Publication and other proofs of service;
- (b) a Torrens Affidavit of Default;
- (c) documentary evidence proposed to be used by the Applicant;

Rule [208](#), Minn Gen R Prac.

In addition, submit (but do not e-file) to the Examiner of Titles by email or mail a proposed Order and Decree of Registration. If the Applicant has requested that boundary lines be marked by the placement of judicial landmarks, also submit (but do not file) a proposed Interlocutory Order, using the form available on the Examiner of Titles website.

Rule [211](#), Minn Gen R Prac.

### *Testimony at the Hearing*

Findings in the proposed Order and Decree of Registration which are not supported by documentary evidence should be proven by the testimony of witnesses.

The Applicant should be present to testify at the hearing. If two Applicants are married to each other, the testimony of one of them will usually be sufficient. If the Applicant is a legal entity, an officer or other knowledgeable employee should testify.

As each case on the Land Title Calendar is called, the Applicant's attorney will be invited to come forward with the witnesses. The Deputy Court Administrator will swear in the witnesses (usually including the attorney) and direct the first witness to be seated in the witness box. The Examiner will instruct the Applicant's attorney to proceed with the case.

Introduce yourself to the court, stating your name and the fact that you represent the Applicant. If the Examiner has not already done so, ask the witness to state his or her name and address. If the witness is an officer or employee of an Applicant which is a legal entity, ask the witness to state his or her relationship to the Applicant and the Applicant's address.

In addition to soliciting testimony to establish findings in the Order and Decree of Registration, ask whether the Applicant:

(a) has sold, mortgaged or otherwise conveyed an interest in the premises since the Application was filed;

(b) is the subject of a judgment, tax lien, or bankruptcy proceeding not mentioned in the Examiner's Report;

(c) is married, single, or involved in a divorce proceeding, if the Applicant is a natural person.

Offer the filed Abstract and other documents into evidence.

The Applicant's attorney may be the appropriate person to testify in support of findings regarding names and interests of persons occupying a parcel of land or maintaining a structure.

#### *Filing the Order and Decree of Registration*

At the conclusion of the hearing, if the Applicant has not requested a boundary determination, the Examiner of Titles endorses the Examiner's approval on the Order and Decree of Registration. (An Interlocutory Order directing the placement of judicial landmarks is issued if the Applicant has requested a boundary determination.) The attorney should then provide to the Deputy Court Administrator in the Examiner's office payment for a certified copy of the Order and Decree of Registration and filing fees for issuance of the first Certificate of Title. If judicial landmarks will be set, additional fees will be collected for a certified copy of the survey and filing fees to file the survey on the first Certificate of Title, on affected adjoining certificates of title, and with the County Recorder if abstract land is affected.

Rule [212](#), Minn Gen R Prac; Minn Stat §§ [508.671](#) and [508.82](#).

The Deputy Court Administrator in the Examiner of Titles office will obtain a judge's signature on the Order and Decree of Registration and deliver documents and payment to the Registrar of Titles, and County Recorder if necessary.

The Registrar of Titles will issue the First Certificate of Title.

Minn Stat § [508.34](#).

### *Interlocutory Order*

If boundary lines will be marked with judicial landmarks, obtain a copy of the Interlocutory Order from the Deputy Court Administrator and deliver it to the Applicant's surveyor, together with the "[Instructions: next steps after an interlocutory order is signed](#)." These instructions are available on the Examiner of Titles website and will be given to you at the hearing. The instructions explain the final survey requirements and steps for obtaining the Order and Decree of Registration.

### *Special Case: Separate Parcels with Different Owners*

If separate parcels are being registered in one proceeding but are not all owned by the same Applicant or Applicants, then a separate Order and Decree of Registration should be issued as to the land owned by each different Applicant.

Entitle each separate Order and Decree of Registration as a "Partial Order and Decree of Registration." The last Order and Decree of Registration in a proceeding may be entitled "Final Partial Order and Decree of Registration."

Insert findings in each Partial Order and Decree of Registration relevant to the land included in the particular Partial Order and Decree of Registration.

Partial Orders and Decrees of Registration may be placed on the Land Title Calendar on the same date or on different dates. See [Hearing Date](#).

## SECTION 9: EXAMPLES

### *Part or all the land being registered is transferred during the registration proceeding*

A person who acquires the original Applicant's estate in all or part of the land being registered by voluntary instrument from the original Applicant may be substituted for the Applicant as to the land acquired by executing and filing an Amended Application with the Deputy Court Administrator in the Examiner's office. There is no fee for the filing of an Amended Application.

Minn Stat § [508.09](#).

A standard Application form may be used for an Amended Application by inserting the word "Amended" before the word "Application" on the form. The caption of the Amended Application should read: "In the Matter of the Application of (name of the original Applicant), original Applicant; and (name of the new owner), Cross Applicant, To Register the Title to Certain Land."

*Part or all the land being registered is platted during the registration proceeding*

The Order and Decree of Registration should describe the land by reference to the new plat. If a Supplemental Report of Examiner referring to the new plat has not been issued, the Order and Decree of Registration should contain a Finding regarding the plat.

If the plat is filed before the Land Title Summons is issued, the Examiner of Titles may require that the Land Title Summons contain both the land description set out in the Examiner's Report and a description referring to lots in the new plat.

*The Applicant gives a mortgage or another interest in the land being registered is created during the registration proceeding*

Interests, such as mortgages, which are created after a certified copy of the Application has been filed with the County Recorder, are subject to the Decree of Registration. Minn Stat § [508.27](#). Persons holding such interests need not be given notice of the proceeding, unless the Examiner of Titles requires notice.

The Order and Decree of Registration should contain findings regarding such interests and, if appropriate, concluding statements regarding the interests should be included in the "subject clause" of the Decree. If an interest has not been mentioned in the Examiner's Report or in a Supplemental Report of Examiner, the Applicant should present evidence at the hearing regarding the interest.

Rule [212](#), Minn Gen R Prac.

*A defendant listed in the order for summons as having a Minnesota address, but when service of the land title summons is attempted the defendant cannot be found within the state for purposes of personal service*

If the defendant has moved out of the state, a Supplemental Petition and Order for Summons should be submitted, listing only the one defendant and that defendant's out-of-state address. A Supplemental Land Title Summons, listing only the one defendant, should also be submitted for issuance by the Court Administrator. The Supplemental Land Title Summons should be served on the defendant. See [Service on Non-resident Defendants](#).

If the defendant cannot be found, it may be possible to insert in the Order and Decree of Registration a finding, such as: "That the Order for Summons contained an error, in that it listed \_\_\_\_\_ as a resident of Minnesota, whereas in fact at the time the Land Title Summons was issued the defendant's address was unknown; and that the defendant has been given notice by publication." The finding should be supported by

evidence at the hearing, including evidence regarding the inquiry and search that preceded the original Petition for Summons.

Rule [205](#), Minn Gen R Prac.

*The examiner's report recommends the occupants of a parcel of land be made defendants in the proceeding, the applicant's attorney ascertains the name of an occupant and lists it in the petition and order for summons, but the occupancy is discontinued before the land title summons is served on the person*

If the person was recommended as a defendant only because of the person's occupancy of land, a finding, such as the following, may be inserted in the Order and Decree of Registration: "That at the time the Land Title Summons was issued, \_\_\_\_\_ was an occupant of (describe the land occupied), but is no longer an occupant and need not be given notice of this proceeding." Evidence to support the finding should be submitted at the hearing.

*The land title summons contains an error*

If there is a substantial error in the land description, an Amended Petition and Order for Summons and an Amended Land Title Summons should be prepared and submitted. The Amended Land Title Summons should be published and served as provided in the section [Service of Process](#).

If a defendant's name is missing or is substantially misspelled, a Supplemental Petition and Order for Summons should be submitted, listing only the one defendant and that defendant's address. A Supplemental Land Title Summons, listing only the one defendant, should also be submitted for issuance by the Court Administrator. The Supplemental Land Title Summons should be served on the defendant as provided in the section [Service of Process](#). If the defendant's address is "unknown" or if the defendant is served by mail out-of-state, the Supplemental Land Title Summons must be published.

*The applicant wishes to dismiss the application*

The Application may be dismissed only by Order of the Court.

Minn Stat § [508.21](#).

If the Applicant wishes to dismiss the Application as to all or part of the land described in the Application either (a) prior to the issuance of the Land Title Summons, or (b) after the time for filing Answers has passed without an Answer being filed, the Applicant may submit a Petition for Dismissal and a proposed Order for Dismissal to the Examiner of

Titles office, along with required fees (\$14 to the Court Administrator for certified copy of the Order and \$46 to the County Recorder for recording the certified copy). Contact the Deputy Court Administrator in the Examiner's office for samples of Petition and Order for Dismissal. If the Examiner approves the Petition and Order, the Deputy Court Administrator in the Examiner's office will obtain a judge's signature on the Order, file the Order in the court file, make a certified copy of the Order, and file the certified copy with the County Recorder.

If an Answer has been filed, the Applicant may by motion request an Order dismissing the Application.

## SECTION 10: TIPS FOR FINDING PEOPLE/ENTITIES

The Applicant is required to make a diligent search for all parties to be served with the Summons. A diligent search may include:

- Search of Grantor/Grantee Index for properties owned
- MNCIS search for addresses in other court cases
- MNCIS search for evidence of name change through marriage dissolution or civil name change order
- MNCIS search for probate cases
- Bankruptcy [search](#) to locate addresses
- Minnesota Secretary of State [website](#) for active and inactive entities, and requesting a complete history to check for mergers (\$6 fee)
- Search of Secretary of State websites in other states, if applicable
- Search of FDIC [website](#) for bank status, mergers, addresses
- Google search
- Obituary searches on-line
- [Whitepages](#) and [Dexknows](#)
- Asking neighbors, associates, friends of the party
- Checking prison and military records
- Skip tracing

For helpful links and more suggestions for finding people see the court's page [Representing Yourself in Court: How Can I Find Someone?](#)