

Quirks of Minnesota law

IS IT ILLEGAL TO SLEEP NAKED IN MINNESOTA?

Could you be arrested for crossing state lines with a duck atop your head? Many such examples of odd Minnesota laws are referenced on the internet, but most appear to be apocryphal. There are, however, some surprising provisions of Minnesota law that can both be verified and impact a party's rights.

One of the more surprising provisions to many legal "visitors" here is our method of "hip-pocket service." The sobriquet refers to the consequence of our rule that requires actions to be commenced in state court by formal service of a summons on the defendant—no action need be filed with the court, but it is still considered a full-fledged lawsuit and has to be defended. This rule is adopted in only two other states, but it is an integral part of the Minnesota legal scene.

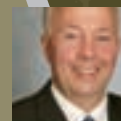
There are some obvious advantages of this quaint approach to court filings—the ability to save filing fees can be material in many cases (filing a complaint and jury demand costs over \$400 in Minnesota state court). Having the complaint exist only in the server's hip pocket also resolves any claim of public access to the papers—the case can remain completely private until any party chooses to go to court. This can be important to many parties to civil cases.

Commencement by service carries some baggage, however, and is sometimes a trap for the unwary—or even the wary. Procrastinators proceed at some peril, especially if a party being sued is going to play "hard to get." If service is not accomplished before the time the statute of limitations runs, the lawsuit is likely to be forever barred. (There is

a fail-safe provision that allows delivery to a sheriff—and that means the sheriff in the specific county where the defendant resides, not a sheriff in another county or some other process server—within the limitations period to be date of "service," but it works only if the sheriff accomplishes service within 60 days.) Going to the courthouse and filing the case does nothing to save the day.

Hip-pocket service, combined with the fact that a Minnesota summons is signed by the plaintiff's attorney in the name of the court and not by any court official, can be confusing to defendants. A call to the court about a complaint may yield an accurate, but not helpful answer from the court administrator, "We have no record of any such case."

While not every back-water aspect of Minnesota law will impact a particular case, it is good to know what they are and when they do matter. In the right situation, not knowing about them could be trouble.



By Mark Lee |

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