

CONTESTED TORRENS CASES IN ST. LOUIS COUNTY

GENERALLY

Torrens cases in St. Louis County, both Applications to register title to land and Petitions in proceedings subsequent to initial registration are referred by the District Court to the Examiner of Titles for hearing and report. Uncontested cases are heard by the Examiner.

A Torrens case in St. Louis County is considered contested when an Answer is filed.

Although the General Rules of Practice exclude Torrens cases from the scheduling rules, once an Answer is filed the rules do apply. Rules 111.01(k), 210 and 214 Minn. Gen. R. Prac.

WHEN AN ANSWER IS FILED.

In most cases, when an Answer is filed, the Applicant or Petitioner should do the following:

- File a Certificate of Representation (Form 104) in accordance with Rule 104, Minn. Gen. R. Prac.
- Submit a written request to the District Court Administrator to have the case assigned to a judge.

Note: The Certificate of Representation and written request should be submitted to the Examiner's office for filing. The Deputy Court Administrator in the Examiner's office will forward items as necessary to the judge. The parties' informational statement and other pleadings and motions should also be submitted to the Examiner's office for filing.

Exceptions. The Applicant or Petitioner need not take steps to have the case assigned to a judge and may place the case on the Examiner's default Calendar for hearing in the following situations:

- The Answer only sets up rights admitted in the application. Rule 209, Minn. Gen. R. Prac.
- The Answer is withdrawn.
- An appropriate Stipulation is entered into between the Applicant and the answering party.

PRETRIAL ACTIVITIES

After a case has been assigned to a judge, the procedures and the method of determination are the same as in other civil proceedings. Rule 210, Minn. Gen. R. Prac.

Torrens cases are excepted from the Alternative Dispute Resolution process. Rule 114.01, Minn. Gen. R. Prac.

Torrens cases are excluded from the Scheduling rule, but the Court may invoke the procedures of the rule. Rule 111.01, Minn. Gen. R. Prac. Generally, Torrens cases in St. Louis County are scheduled in accordance with the Scheduling rule.

Discovery should be completed. Rules 26 - 37, Minn. R. Civ. P.

SETTING THE CASE FOR TRIAL

After discovery has been completed, motions have been heard, and other matters have been taken care of, the case may be set for trial before the judge or the case may be referred to the Examiner of Titles for hearing.

Court Trial.

If all parties want the case heard by the judge, the case should be set for trial in accordance with the procedures for civil matters in St. Louis County.

There is no right to a jury trial in a land registration proceeding. *Carl v. De Toffol*, 223 Minn. 24, 25 N.W.2d 479 (1946).

Reference to the Examiner of Titles.

A Torrens case may be referred to the Examiner of Titles for hearing pursuant to Minn. Stat., §§508.13 and 508.20, as follows:

- Stipulation. If all parties want the case referred to the Examiner of Titles for hearing, they may execute a Stipulation for Hearing. The Stipulation and proposed Order should be submitted to the Examiner's office and a Deputy Court Administrator in the Examiner's office will obtain the judge's signature on the Order. [See Forms attached]
- Motion. Any party may bring a Motion before the judge to have the case referred to the Examiner of Titles for hearing. The judge's clerk should be contacted by the party bringing the Motion to arrange the hearing date. [See Forms attached]
- Judges Own Motion. The judge may refer the case to the Examiner of Titles for hearing.

HEARING BEFORE THE EXAMINER OF TITLES

Date and Place of Hearing

After an Order referring a contested case to the Examiner of Titles has been issued, the Examiner will by letter advise the parties of the time and date of hearing, and other pertinent information.

Contested case hearings are held in a courtroom in the St. Louis County Court House.

Trial Proceedings.

Cases are heard by the Examiner in the same manner as contested cases heard by a judge. Usually, a Court Reporter will be present to record testimony. The Examiner may request post-trial briefs.

EXAMINER'S REPORT

The Examiner will issue a Report to the Court, setting forth recommended Findings, Conclusions of Law and Order. Minn. Stat. §§508.13 and 508.20.

The Examiner's Report will be filed in the court file and a copy will be sent to each party or the party's attorney.

COURT ORDER

Usually, the prevailing party by Motion requests that the judge adopt the Examiner's Report. However, any party may by Motion request that the judge adopt or reject the Examiner's Report. The judge's clerk should be contacted by the party bringing the Motion to arrange the hearing date. [See Forms attached]

The judge may adopt or reject the Examiner's Report, or may order further hearing on the matter. Minn. Stat. §508.20.

The standard form of Order of Reference to the Examiner for Hearing does not provide that a transcript is to a company the proposed findings of fact, conclusions of law and recommended order. However, if a party desires to submit a transcript to the judge, the party may do so at the party's expense.

Note: The Order and Decree of Registration will be issued after a final hearing as a default matter.

FORMS

The following Forms, recommended for use in contested Torrens Cases, are attached:

Original Registration Proceedings.

1. ORDER OF REFERENCE ON STIPULATION (APPLICATION) - page 5
2. ORDER OF REFERENCE ON MOTION (APPLICATION) - page 6
3. ORDER ADOPTING THE REPORT OF THE EXAMINER OF TITLES (APPLICATION) - page 7

Proceedings Subsequent to Initial Registration.

1. ORDER OF REFERENCE ON STIPULATION (PETITION) - page 8
2. ORDER OF REFERENCE ON MOTION (PETITION) - page 9
3. ORDER ADOPTING THE REPORT OF THE EXAMINER OF TITLES (PETITION) - page 10

File No. _____

**STATE OF MINNESOTA
COUNTY OF ST. LOUIS**

**DISTRICT COURT
SIXTH JUDICIAL DISTRICT**

In the Matter of the Application of

**CONTESTED CASE
STIPULATION
AND
ORDER OF REFERENCE**

To Register the Title to Certain
Land

STIPULATION

An Application for Registration of Title having been filed and _____

appearing as attorney(s) for Applicant(s), and Defendant _____

having filed an Answer, _____ appearing as attorney(s) for the
Answering Defendant(s); and the attorneys having stipulated, consent that the Application for
registration of title and the issues of law and fact raised by the Answer may be referred by the
Court to the Examiner of Titles to hear and determine all of the issues.

Dated: _____, 20____

Attorney(s) for Applicant(s)

Attorney(s) for Defendant(s)

ORDER

Upon the filing of the foregoing consent:

IT IS HEREBY ORDERED, that this case is referred to the Examiner of Titles to hear
and determine all the issues of law and fact, make Findings of Fact and Conclusions of Law and
to report the same according to the provisions of Minnesota Statutes, Section 508.20. No exhibits
or transcript of proceedings shall be filed by the Examiner with the Report.

The Report may be adopted by the Court on the motion of either party.

On any motion for review of the Report or motion objecting to the Report, based on a
transcript of the evidence and the exhibits produced at the hearing, the cost of the transcript shall
be paid by the moving party.

Dated: _____

Judge of District Court

File No. _____

**STATE OF MINNESOTA
COUNTY OF ST. LOUIS**

**DISTRICT COURT
SIXTH JUDICIAL DISTRICT**

In the Matter of the Application of

**CONTESTED CASE
ORDER OF REFERENCE
ON MOTION**

To Register the Title to Certain
Land

ORDER

An Application for Registration of Title having been filed, _____

appearing as attorney(s) for Applicant(s), and Defendant _____

having filed an Answer, _____ appearing as attorney(s) for
the Answering Defendant(s); and the attorney(s) for Applicant(s) or Answering
Defendant(s) having petitioned the Court for an Order of Reference to the Examiner of
Titles pursuant to Minnesota Statutes Section 508.20;

IT IS HEREBY ORDERED, that this case is referred to the Examiner of Titles to
hear and determine all the issues of law and fact, make Findings of Fact and Conclusions
of Law and to report the same according to the provisions of Minnesota Statutes, Section
508.20. No exhibits or transcript of proceedings shall be filed by the Examiner with the
Report.

The Report may be adopted by the Court on the motion of either party.

On any motion for review of the Report or motion objecting to the Report, based
on a transcript of the evidence and the exhibits produced at the hearing, the cost of the
transcript shall be paid by the moving party.

Dated: _____

Judge of District Court

File No. _____

**STATE OF MINNESOTA
COUNTY OF ST. LOUIS**

**DISTRICT COURT
SIXTH JUDICIAL DISTRICT**

In the Matter of the Application of

**ORDER ADOPTING THE REPORT
OF EXAMINER OF TITLES**

To Register the Title to Certain
Land

The above-entitled matter came on for hearing on _____, 20____, on
Motion of _____ for an Order adopting the Report of the
Examiner of Titles dated _____, 20____ and filed in this matter.

_____ appeared on behalf of _____.
_____ appeared on behalf of _____.

The Court having considered the records and proceedings herein, the arguments
of counsel, and being duly advised,

IT IS HEREBY ORDERED, as follows:

1. That the Report of the Examiner of Titles, including the Findings of Fact,
Conclusions of Law and recommended Order, are adopted by the Court.

3. That this matter is referred back to the Examiner of Titles pursuant to
Minn. Stat., Sec. 508.13 for further proceedings consistent with this Order.

Dated: _____

Judge of District Court

File No. _____

**STATE OF MINNESOTA
COUNTY OF ST. LOUIS**

**DISTRICT COURT
SIXTH JUDICIAL DISTRICT**

In the Matter of the Petition of

**CONTESTED CASE
STIPULATION
AND
ORDER OF REFERENCE**

For _____

STIPULATION

A Petition in Proceedings Subsequent to Initial Registration having been filed,

_____ appearing as attorney(s) for Petitioner(s), and Defendant

_____ having filed an Answer, _____
appearing as attorney(s) for the Answering Defendant(s); and the attorneys having stipulated,
consent that the Application for registration of title and the issues of law and fact raised by the
Answer may be referred by the Court to the Examiner of Titles to hear and determine all of the
issues.

Dated: _____, 20__

Attorney(s) for Applicant(s)

Attorney(s) for Defendant(s)

ORDER

Upon the filing of the foregoing consent:

IT IS HEREBY ORDERED, that this case is referred to the Examiner of Titles, or to a
Deputy Examiner of Titles assigned by the Examiner of Titles, to hear and determine all the
issues of law and fact, make Findings of Fact and Conclusions of Law and to report the same
according to the provisions of Minnesota Statutes, Section 508.20. No exhibits or transcript of
proceedings shall be filed by the Examiner with the Report.

The Report may be adopted by the Court on the motion of either party.

On any motion for review of the Report or motion objecting to the Report, based on a
transcript of the evidence and the exhibits produced at the hearing, the cost of the transcript shall
be paid by the moving party.

Dated: _____

Judge of District Court

File No. _____

**STATE OF MINNESOTA
COUNTY OF ST. LOUIS**

**DISTRICT COURT
SIXTH JUDICIAL DISTRICT**

In the Matter of the Petition of

**CONTESTED CASE
ORDER OF REFERENCE
ON MOTION**

For _____

ORDER

A Petition in Proceedings Subsequent to Initial Registration having been filed,

_____ appearing as attorney(s) for Petitioner(s), and Defendant

_____ having filed an Answer, _____

appearing as attorney(s) for the Answering Defendant(s); and the attorney(s) for
Petitioner(s) or Answering Defendant(s) having petitioned the Court for an Order of
Reference to the Examiner of Titles pursuant to Minnesota Statutes Section 508.20;

IT IS HEREBY ORDERED, that this case is referred to the Examiner of Titles to
hear and determine all the issues of law and fact, make Findings of Fact and Conclusions
of Law and to report the same according to the provisions of Minnesota Statutes, Section
508.20. No exhibits or transcript of proceedings shall be filed by the Examiner with the
Report.

The Report may be adopted by the Court on the motion of either party.

On any motion for review of the Report or motion objecting to the Report, based
on a transcript of the evidence and the exhibits produced at the hearing, the cost of the
transcript shall be paid by the moving party.

Dated: _____

Judge of District Court

File No. _____

**STATE OF MINNESOTA
COUNTY OF ST. LOUIS**

**DISTRICT COURT
SIXTH JUDICIAL DISTRICT**

In the Matter of the Petition of

ORDER

For _____

The above-entitled matter came on for hearing on _____, 20____, on Motion of _____ for an Order adopting the Report of the Examiner of Titles dated _____, 20____ and filed in this matter.

_____ appeared on behalf of _____.

_____ appeared on behalf of _____.

The Court having considered the records and proceedings herein, the arguments of counsel, and the Report of the Examiner of Titles, finds:

[Insert Findings from Examiner of Titles Report]

NOW, THEREFORE, IT IS HEREBY ORDERED, as follows:

[Insert recommended Order from Examiner of Titles Report]

Dated: _____

Judge of District Court