

## 9.2 RELEVANCY

Information sought to be discovered must be relevant to the subject matter of the proceeding,<sup>1</sup> that is, the information must satisfy the trial standard of evidentiary admissibility or be related to the proof or defense of issues involved in the proceeding.<sup>2</sup> Relevant evidence, for purposes of admissibility at trial, is defined as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.”<sup>3</sup> In *State v. Horning*,<sup>4</sup> the Minnesota Supreme Court explained that the “threshold determination of relevance turns on whether the evidence logically or reasonably tends to prove or disprove a material fact in issue, or tends to make such a fact more or less probable, or affords the basis for or supports a reasonable inference or presumption regarding the existence of a material fact.”<sup>5</sup>

The scope of inquiry, however, is relevant to the “subject matter of the action” not to the “issues” in the case.<sup>6</sup> Thus, the scope of discovery extends to inadmissible evidence if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.<sup>7</sup> In addition, impeachment material may be discovered as relevant information.<sup>8</sup> In *Jeppesen v. Swanson*,<sup>9</sup> the Minnesota Supreme Court discussed the limits of relevancy as regards discovery:

It would seem to us that, even though the discovery is not to be limited to facts which may be admissible as evidence, the ultimate goal is to ascertain facts or information which may be used for proof or defense of an action. Such information may be discovered by leads from other discoverable information. The purpose of a discovery rule is to take the surprise out of trials of cases so that all relevant facts and information pertaining to the action may be ascertained in advance of trial. Where it is sought to discover information which can have no possible bearing on the determination of the action on its merits, it can hardly be within the rule. It is not intended to supply information

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<sup>1</sup> *Kalish v. Mount Sinai Hosp.*, 270 N.W. 2d 783, 784-85 (Minn. 1978); *Jeppesen v. Swanson*, 243 Minn. 547, 549, 68 N.W. 2d 649, 651 (1955); MINN. R. 1400.6700, subsps. 2, 3 (2013).

<sup>2</sup> *Jeppesen*, 243 Minn. at 554, 68 N.W.2d at 653.

<sup>3</sup> MINN. R. EVID. 401.

<sup>4</sup> 535 N.W.2d 296 (Minn. 1995).

<sup>5</sup> *Id.* at 289 (citing MINN. R. EVID. 401, committee cmt.)

<sup>6</sup> MINN. R. CIV. P. 26.02(a).

<sup>7</sup> *Ramsey Cnty. v. S.M.F.*, 298 N.W. 2d 40, 42 (Minn. 1980); *Anderson v. Florence*, 288 Minn. 351, 360, 181 N.W. 2d 873, 877 (1970).

<sup>8</sup> *Boldt v. Sanders*, 261 Minn. 160, 164, 111 N.W. 2d 225, 227 (1961).

<sup>9</sup> 243 Minn. 547, 68 N.W. 2d 649 (1955), *superseded by court rule*, MINN. R. CIV. P. 26.02(c) (addressing discovery of insurance policy for the purpose of determining advisability of settlement). In 1970, the relevant Federal Rule of Civil Procedure was amended to allow discovery of insurance coverage information, and most states followed suit. *Thomas v. Oldfield*, 279 S.W.3d 259, 263-64 (Tenn. 2009). While the holding in *Jeppesen* was superseded by court rule specifically as to insurance coverage information, the court’s discussion in *Jeppesen* regarding limits of relevancy remain informative as to limits of discovery in general.

for the personal use of a litigant that has no connection with the determination of the issues involved in the action of their merits.<sup>10</sup>

In short, matters sought to be discovered in administrative law settings will be considered relevant if the information requested has a logical relationship to the resolution of a claim or defense in the contested case proceeding, is calculated to lead to such information, or is sought for purposes of impeachment.<sup>11</sup>

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<sup>10</sup> *Jeppesen*, 243 Minn. at 560, 68 N.W. 2d at 656; *see supra* note 9 (discussing changes in discovery rules specifically as to discovery of insurance coverage information).

<sup>11</sup> For an extensive analysis of relevancy as a condition to discovery, *see* 6 MOORE'S FEDERAL PRACTICE § 26.41 (3d ed. 1997).