

1 SEC. 3. Amend the proposed rules of civil procedure found in
2 Senate Journal, January 18, 1973, pages 104 and 105, Rule one hun-
3 dred twenty-two (122), subdivision three (3), unnumbered paragraph
4 two (2) to read as follows:

5 A party may obtain without the required showing a statement con-
6 cerning the action or its subject matter previously made by that party.
7 Upon request, a person not a party may obtain without the required
8 showing a statement concerning the action or its subject matter pre-
9 viously made by that person. If the request is refused, the person may
10 move for a court order. The provisions of rule 134(a)(4) apply to the
11 award of expenses incurred in relation to the motion. For purposes
12 of this paragraph, a statement previously made ~~in~~ is (A) a written
13 statement signed or otherwise adopted or approved by the person
14 making it, or (B) a stenographic, mechanical, electrical, or other
15 recording, or a transcription thereof, which is a substantially verbatim
16 recital of an oral statement by the person making it and contempo-
17 raneously recorded.

1 SEC. 4. Amend the proposed rules of civil procedure found in
2 Senate Journal, January 18, 1973, page 116, Rule two hundred three
3 (203), subdivision two (2), paragraph (a), by adding the following
4 new sentence: However, no general verdict, special verdict, or answers
5 to interrogatories may be rendered by five-sixths of the jurors or less
6 until the jurors have deliberated for a period of not less than six hours
7 after the issues to be decided have been submitted to them.

Approved July 6, 1973.

This Act was passed by the G. A. before July 1, 1973.

CHAPTER 316

RULES OF CIVIL PROCEDURE

IN THE MATTER OF THE RULES OF CIVIL PROCEDURE	}	REPORT OF THE SUPREME COURT
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To the First Regular Session of the Sixty-fifth General Assembly of the State of Iowa:

1 Pursuant to Sections 684.18 and 684.19, Code 1973, the Supreme
2 Court of Iowa has prescribed and hereby reports to the General
3 Assembly changes in the existing Rules of Civil Procedure as follows:

4 **Rule 8. Injury or death of a minor.**

5 That rule 8 be stricken and the following be substituted:

6 A parent, or the parents, may sue for the expense and actual loss
7 of services, companionship and society resulting from injury to or
8 death of a minor child.

9 **Rule 34. Bringing in new parties—procedure.**

10 That "rule 33" be stricken from line 2 of rule 74 and "rules 33 and
11 34" be substituted, that "(a) AGAINST COPARTIES." be stricken from
12 rule 33, and that rules 33(b) and 34 be stricken and the following
13 be substituted:

14 **Rule 34. Third party practice.**

15 (a) When Defendant May Bring in Third Party. At any time after
 16 commencement of the action a defending party, as a third-party plain-
 17 tiff, may file a cross-petition and cause an original notice to be served
 18 upon a person not a party to the action who is or may be liable to him
 19 for all or part of the plaintiff's claim against him. The third-party
 20 plaintiff need not obtain leave to make the service if he files the cross-
 21 petition not later than 10 days after he files his original answer.
 22 Otherwise he must obtain leave on motion upon notice to all parties
 23 to the action. The person served with the original notice, hereinafter
 24 called the third-party defendant, shall make his defenses to the third-
 25 party plaintiff's claim as provided in rule 85 and his counterclaims
 26 against the third-party plaintiff as provided in rule 29 and cross-
 27 claims against other third-party defendants as provided in rule 33.
 28 The third-party defendant may assert against the plaintiff any de-
 29 fenses which the third-party plaintiff has to the plaintiff's claim.
 30 The third-party defendant may also assert any claim against the
 31 plaintiff arising out of the transaction or occurrence that is the sub-
 32 ject matter of the plaintiff's claim against the third-party plaintiff,
 33 and the plaintiff thereupon shall assert his defenses as provided in
 34 rule 85 and his counterclaims under rule 29. Any party may move to
 35 strike the third-party claim or for its severance or for separate trial.
 36 A third-party defendant may proceed under this rule against any
 37 person not a party to the action who is or may be liable to him for all
 38 or part of the claim made in the action against the third-party de-
 39 fendant.

40 (b) When Plaintiff May Bring in Third Party. When a counter-
 41 claim is asserted against a plaintiff, he may cause a third party to be
 42 brought in under circumstances which under this rule would entitle
 43 a defendant to do so.

44 **Rule 55. Failure to file petition.**

45 That rule 55 be amended by adding thereto the following:

46 Dismissals under this rule shall be without prejudice, but if the
 47 plaintiff has previously dismissed an action against the same de-
 48 fendant in any court of any state or of the United States, including
 49 or based on the same cause, such dismissal shall operate as an ad-
 50 judication against him on the merits unless otherwise ordered by the
 51 court in the interest of justice.

52 **Rule 121. Discovery methods.**

53 That rule 121 be stricken and the following be substituted:

54 Parties may obtain discovery by one or more of the following
 55 methods: depositions upon oral examination or written questions;
 56 written interrogatories; production of documents or things or per-
 57 mission to enter upon land or other property, for inspection and other
 58 purposes; physical and mental examinations; and requests for ad-
 59 mission. Unless the court orders otherwise under rule 123, the fre-
 60 quency of use of these methods is not limited.

61 **Rule 122. Scope of discovery.**

62 That rule 122 be stricken and the following be substituted:

63 Unless otherwise limited by order of the court in accordance with
 64 these rules, the scope of discovery is as follows:

65 (1) In General. Parties may obtain discovery regarding any mat-
66 ter, not privileged, which is relevant to the subject matter involved
67 in the pending action, whether it relates to the claim or defense of
68 the party seeking discovery or to the claim or defense of any other
69 party, including the existence, description, nature, custody, condition
70 and location of any books, documents, or other tangible things and the
71 identity and location of persons having knowledge of any discoverable
72 matter. It is not ground for objection that the information sought
73 will be inadmissible at the trial if the information sought appears
74 reasonably calculated to lead to the discovery of admissible evidence.

75 (2) Insurance Agreements. A party may obtain discovery of the
76 existence and contents of any insurance agreement under which any
77 person carrying on an insurance business may be liable to satisfy part
78 or all of a judgment which may be entered in the action or to indem-
79 nify or reimburse for payments made to satisfy the judgment.
80 Information concerning the insurance agreement is not by reason of
81 disclosure admissible in evidence at trial. For purposes of this para-
82 graph, an application for insurance shall not be treated as part of an
83 insurance agreement.

84 (3) Trial Preparation: Materials. Subject to the provisions of
85 subdivision (4) of this rule, a party may obtain discovery of docu-
86 ments and tangible things otherwise discoverable under subdivision
87 (1) of this rule and prepared in anticipation of litigation or for trial
88 by or for another party or by or for that other party's representative
89 (including his attorney, consultant, surety, indemnitor, insurer, or
90 agent) only upon a showing that the party seeking discovery has
91 substantial need of the materials in the preparation of his case and
92 that he is unable without undue hardship to obtain the substantial
93 equivalent of the materials by other means. In ordering discovery of
94 such materials when the required showing has been made, the court
95 shall protect against disclosure of the mental impressions, conclu-
96 sions, opinions, or legal theories of an attorney or other representative
97 of a party concerning the litigation.

98 A party may obtain without the required showing a statement concern-
99 ing the action or its subject matter previously made by that party.
100 Upon request, a person not a party may obtain without the required
101 showing a statement concerning the action or its subject matter pre-
102 viously made by that person. If the request is refused, the person
103 may move for a court order. The provisions of rule 134(a)(4) apply
104 to the award of expenses incurred in relation to the motion. For pur-
105 poses of this paragraph, a statement previously made in (A) a written
106 statement signed or otherwise adopted or approved by the person
107 making it, or (B) a stenographic, mechanical, electrical, or other
108 recording, or a transcription thereof, which is a substantially ver-
109 batim recital of an oral statement by the person making it and
110 contemporaneously recorded.

111 (4) Trial Preparation: Experts. Except as provided in rule 133,
112 discovery of facts known and opinions held by experts, otherwise dis-
113 coverable under the provisions of subdivision (1) of this rule and
114 acquired or developed in anticipation of litigation or for trial, may
115 be obtained only as follows:

116 (A) (i) A party may through interrogatories require any other
117 party to identify each person whom the other party expects to call

118 as an expert witness at trial, to state the subject matter on which the
119 expert is expected to testify, and to state the substance of the facts
120 and opinions to which the expert is expected to testify and a sum-
121 mary of the grounds for each opinion. (ii) Upon motion, the court
122 may order further discovery by other means, subject to such re-
123 strictions as to scope and such provisions, pursuant to subdivision
124 (4) (C) of this rule, concerning fees and expenses as the court may
125 deem appropriate.

126 (B) A party may discover facts known or opinions held by an
127 expert who has been retained or specially employed by another party
128 in anticipation of litigation or preparation for trial and who is not
129 expected to be called as a witness at trial, only as provided in rule
130 133 or upon a showing of exceptional circumstances under which it
131 is impracticable for the party seeking discovery to obtain facts or
132 opinions on the same subject by other means.

133 (C) Unless manifest injustice would result, (i) the court shall
134 require that the party seeking discovery pay the expert a reasonable
135 fee for time spent in responding to discovery under subdivisions
136 (4) (A) (ii) and (4) (B) of this rule; and (ii) with respect to discov-
137 ery obtained under subdivision (4) (A) (ii) of this rule the court may
138 require, and with respect to discovery obtained under subdivision
139 (4) (B) of this rule the court shall require, the party seeking discov-
140 ery to pay the other party a fair portion of the fees and expenses
141 reasonably incurred by the latter party in obtaining facts and opin-
142 ions from the expert.

143 **Rule 123. Protective orders.**

144 That rule 123 be stricken and the following be substituted:

145 Upon motion by a party or by the person from whom discovery is
146 sought or by any person who may be affected thereby, and for good
147 cause shown, the court in which the action is pending or alternatively,
148 on matters relating to a deposition, the court in the district where the
149 deposition is to be taken, may make any order which justice requires
150 to protect a party or person from annoyance, embarrassment, oppres-
151 sion, or undue burden or expense, including one or more of the follow-
152 ing: (1) that the discovery not be had; (2) that the discovery may
153 be had only on specified terms and conditions, including a designa-
154 tion of the time or place; (3) that the discovery may be had only by
155 a method of discovery other than that selected by the party seeking
156 discovery; (4) that certain matters not be inquired into, or that the
157 scope of the discovery be limited to certain matters; (5) that discov-
158 ery be conducted with no one present except persons designated by
159 the court; (6) that a deposition after being sealed be opened only by
160 order of the court; (7) that a trade secret or other confidential
161 research, development, or commercial information not be disclosed
162 or be disclosed only in a designated way; (8) that the parties simul-
163 taneously file specified documents or information enclosed in sealed
164 envelopes to be opened as directed by the court.

165 If the motion for a protective order is denied in whole or in part,
166 the court may, on such terms and conditions as are just, order that
167 any party or person provide or permit discovery. The provisions of
168 rule 134(a)(4) apply to the award of expenses incurred in relation
169 to the motion.

170 **Rule 124. Sequence and timing of discovery.**

171 That rule 124 be stricken and that the following be substituted:

172 Unless the court upon motion orders otherwise for the convenience
173 of parties and witnesses and in the interests of justice, methods of
174 discovery may be used in any sequence and the fact that a party is
175 conducting discovery, whether by deposition or otherwise, shall not
176 operate to delay any other party's discovery.

177 **Rule 125. Supplementation of responses.**

178 That rule 125 be stricken and the following be substituted:

179 A party who has responded to a request for discovery with a
180 response that was complete when made is under no duty to supple-
181 ment his response to include information thereafter acquired, except
182 as follows:

183 (1) A party is under a duty seasonably to supplement his response
184 with respect to any question directly addressed to (A) the identity
185 and location of persons having knowledge of discoverable matters,
186 and (B) the identity of each person expected to be called as an expert
187 witness at trial, the subject matter on which he is expected to testify,
188 and the substance of his testimony.

189 (2) A party is under a duty seasonably to amend a prior response
190 if he obtains information upon the basis of which (A) he knows that
191 the response was incorrect when made, or (B) he knows that the
192 response though correct when made is no longer true and the cir-
193 cumstances are such that a failure to amend the response is in sub-
194 stance a knowing concealment.

195 (3) A duty to supplement responses may be imposed by order of
196 the court, agreement of the parties, or at any time prior to trial
197 through new requests for supplementation of prior responses.

198 **Rule 126. Interrogatories to parties.**

199 That rule 126 be stricken and the following be substituted:

200 (a) Availability; procedures for use. Except in small claims, any
201 party may file written interrogatories to be answered by another
202 party served or, if the other party is a public or private corporation
203 or a partnership or association or governmental agency, by any
204 officer or agent, who shall furnish such information as is available
205 to the party. Copies of interrogatories and answers shall be filed for
206 each adverse party. Interrogatories may, without leave of court, be
207 directed to the plaintiff after commencement of the action and upon
208 any other party with or after service of the original notice upon that
209 party.

210 The clerk shall deliver a copy of the interrogatories as provided in
211 rule 82, unless a copy shall have been served with an original notice.

212 Each interrogatory shall be answered separately and fully in writ-
213 ing under oath, unless it is objected to, in which event the reasons for
214 objection shall be stated in lieu of an answer. The answers are to be
215 signed by the person making them. The party to whom the inter-
216 rogatories are directed shall file the answers, and objections if any,
217 within 30 days after they are filed, except that a defendant may file
218 answers or objections within 45 days after service of the original
219 notice upon that defendant. The court may allow a shorter or longer
220 time. The party submitting the interrogatories may move for an
221 order under rule 134(a) with respect to any objection to or other

222 failure to answer an interrogatory. Copies of answers shall be de-
223 livered as provided in rule 82.

224 (b) Scope; use at trial. Interrogatories may relate to any matters
225 which can be inquired into under rule 122, and the answers may be
226 used to the extent permitted by the rules of evidence.

227 An interrogatory otherwise proper is not necessarily objectionable
228 merely because an answer to the interrogatory involves an opinion
229 or contention that relates to fact or the application of law to fact,
230 but the court may order that such an interrogatory need not be
231 answered until after designated discovery has been completed or
232 until a pretrial conference or other later time.

233 (c) Option to produce business records. Where the answer to an
234 interrogatory may be derived or ascertained from the business rec-
235 ords of the party upon whom the interrogatory has been served or
236 from an examination, audit or inspection of such business records,
237 or from a compilation, abstract or summary based thereon, and the
238 burden of deriving or ascertaining the answer is substantially the
239 same for the party serving the interrogatory as for the party served,
240 it is a sufficient answer to such interrogatory to specify the records
241 from which the answer may be derived or ascertained and to afford
242 to the party serving the interrogatory reasonable opportunity to
243 examine, audit or inspect such records and to make copies, compila-
244 tions, abstracts or summaries.

245 **Rule 127. Requests for admission.**

246 That rule 127 be stricken and the following be substituted:

247 A party may serve upon any other party a written request for the
248 admission, for purposes of the pending action only, of the truth of
249 any matters within the scope of rule 122 set forth in the request that
250 relate to statements or opinions of fact or of the application of law to
251 fact, including the genuineness of any documents described in the
252 request. Copies of documents shall be served with the request unless
253 they have been or are otherwise furnished or made available for
254 inspection and copying. The request may, without leave of court,
255 be served upon the plaintiff after commencement of the action and
256 upon any other party with or after service of the original notice upon
257 that party.

258 Each matter of which an admission is requested shall be separately
259 set forth. The matter is admitted unless, within 30 days after service
260 of the request, or within such shorter or longer time as the court
261 may on motion allow, the party to whom the request is directed
262 serves upon the party requesting the admission a written answer or
263 objection addressed to the matter, signed by the party or by his
264 attorney, but, unless the court shortens the time, a defendant shall
265 not be required to serve answers or objections before the expiration
266 of 45 days after service of the original notice upon him. If objection
267 is made, the reasons therefor shall be stated. The answer shall
268 specifically deny the matter or set forth in detail the reasons why the
269 answering party cannot truthfully admit or deny the matter. A
270 denial shall fairly meet the substance of the requested admission,
271 and when good faith requires that a party qualify his answer or deny
272 only a part of the matter of which an admission is requested, he shall
273 specify so much of it as is true and qualify or deny the remainder.
274 An answering party may not give lack of information or knowledge

275 as a reason for failure to admit or deny unless he states that he has
276 made reasonable inquiry and that the information known or readily
277 obtainable by him is insufficient to enable him to admit or deny. A
278 party who considers that a matter of which an admission has been
279 requested presents a genuine issue for trial may not, on that ground
280 alone, object to the request; he may, subject to the provisions of
281 rule 134(c), deny the matter or set forth reasons why he cannot
282 admit or deny it.

283 The party who has requested the admission may move to determine
284 the sufficiency of the answers or objections. Unless the court deter-
285 mines that an objection is justified, it shall order that an answer be
286 served. If the court determines that an answer does not comply with
287 the requirements of this rule, it may order either that the matter is
288 admitted or that an amended answer be served. The court may, in
289 lieu of these orders, determine that final disposition of the request
290 be made at a pretrial conference or at a designated time prior to trial.
291 The provisions of rule 134(a)(4) apply to the award of expenses
292 incurred in relation to the motion.

293 **Rule 128. Effect of admission.**

294 That rule 128 be stricken and the following be substituted:

295 Any matter admitted under this rule is conclusively established in
296 the pending action unless the court on motion permits withdrawal
297 or amendment of the admission. Subject to the provisions of rule 138
298 governing amendment of a pretrial order, the court may permit with-
299 drawal or amendment when the presentation of the merits of the
300 action will be subserved thereby and the party who obtained the
301 admission fails to satisfy the court that withdrawal or amendment
302 will prejudice him in maintaining his action or defense on the merits.
303 Any admission made by a party under this rule may be used as an
304 evidentiary admission only in any other proceeding.

305 **Rule 129. Production of documents and things and entry upon
306 land for inspection and other purposes.**

307 That rule 129 be stricken and the following be substituted:

308 Any party may serve on any other party a request (1) to produce
309 and permit the party making the request, or someone acting on his
310 behalf, to inspect and copy, any designated documents (including
311 writings, drawings, graphs, charts, photographs, phono-records, and
312 other data compilations from which information can be obtained,
313 translated, if necessary, by the respondent through detection devices
314 into reasonably usable form), or to inspect and copy, test, or sample
315 any tangible things which constitute or contain matters within the
316 scope of rule 122 and which are in the possession, custody or control
317 of the party upon whom the request is served; or (2) except as other-
318 wise provided by statute, to permit entry upon designated land or
319 other property in the possession or control of the party upon whom
320 the request is served for the purpose of inspection and measuring,
321 surveying, photographing, testing, or sampling the property or any
322 designated object or operation thereon, within the scope of rule 122.

323 **Rule 130. Procedure under rule 129.**

324 That rule 130 be stricken and the following be substituted:

325 The request may, without leave of court, be served upon the plain-
326 tiff after commencement of the action and upon any other party with

327 or after service of the original notice upon that party. The request
328 shall set forth the items to be inspected either by individual item or
329 by category, and describe each item and category with reasonable
330 particularity. The request shall specify a reasonable time, place,
331 and manner of making the inspection and performing the related
332 acts.

333 The party upon whom the request is served shall serve a written
334 response within 30 days after the service of the request, except that
335 a defendant may serve a response within 45 days after service of the
336 original notice upon that defendant. The court may allow a shorter
337 or longer time. The response shall state, with respect to each item
338 or category, that inspection and related activities will be permitted
339 as requested, unless the request is objected to, in which event the
340 reasons for objection shall be stated. If objection is made to part of
341 an item or category, the part shall be specified. The party submitting
342 the request may move for an order under rule 134 with respect to any
343 objection to or other failure to respond to the request or any part
344 thereof, or any failure to permit inspection as requested.

345 **Rule 131. Action for production or entry against persons not parties.**

346 That rule 131 be stricken and the following be substituted:

347 Rules 129 and 130 do not preclude an independent action against a
348 person not a party for production of documents and things and per-
349 mission to enter upon land.
350

351 **Rule 132. Physical and mental examination of persons.**

352 That rule 132 be stricken and the following be substituted:

353 When the mental or physical condition (including the blood group)
354 of a party, or of a person in the custody or under the legal control of
355 a party, is in controversy, the court in which the action is pending
356 may order the party to submit to a physical or mental examination
357 by a physician or to produce for examination the person in his cus-
358 tody or legal control. The order may be made only on motion for good
359 cause shown and upon notice to the person to be examined and to all
360 parties and shall specify the time, place, manner, conditions, and
361 scope of the examination and the person or persons by whom it is
362 to be made.

363 **Rule 133. Report of examining physician.**

364 That rule 133 be stricken and the following be substituted:

365 (a) If requested by the party against whom an order is made
366 under rule 132 or the person examined, the party causing the exami-
367 nation to be made shall deliver to him a copy of a detailed written
368 report of the examining physician setting out his findings, including
369 results of all tests made, diagnosis and conclusions, together with
370 like reports of all earlier examinations of the same condition. After
371 delivery the party causing the examination shall be entitled upon
372 request to receive from the party against whom the order is made
373 a like report of any examination, previously or thereafter made, of
374 the same condition, unless, in the case of a report of examination of
375 a person not a party, the party shows that he is unable to obtain it.
376 The court on motion may make an order against a party requiring
377 delivery of a report on such terms as are just, and if a physician fails

378 or refuses to make a report the court may exclude his testimony if
379 offered at the trial.

380 (b) By requesting and obtaining a report of the examination so
381 ordered or by taking the deposition of the examiner, the party
382 examined waives any privilege he may have in that action or any
383 other involving the same controversy, regarding the testimony of
384 every other person who has examined or may thereafter examine him
385 in respect of the same mental or physical condition.

386 (c) This rule applies to examination made by agreement of the
387 parties, unless the agreement expressly provides otherwise. This rule
388 does not preclude discovery of a report of an examining physician or
389 the taking of a deposition of the physician in accordance with the
390 provisions of any other rule or statute.

391 **Rule 134. Failure to make discovery: consequences.**

392 That rule 134 be stricken and the following be substituted:

393 (a) Motion for order compelling discovery. A party, upon reason-
394 able notice to other parties and all persons affected thereby, may
395 apply for an order compelling discovery as follows:

396 (1) Appropriate court. An application for an order to a party may
397 be made to the court in which the action is pending, or, on matters
398 relating to a deposition, to the court in the district where the deposi-
399 tion is being taken. An application for an order to a deponent who
400 is not a party shall be made to the court in the district where the
401 deposition is being taken.

402 (2) Motion. If a deponent fails to answer a question propounded
403 or submitted under rule 140 or 150, or a corporation or other entity
404 fails to make a designation under rule 147(e), or a party fails to
405 answer an interrogatory submitted under rule 126, or if a party, in
406 response to a request for inspection submitted under rule 129, fails
407 to respond that inspection will be permitted as requested or fails to
408 permit inspection as requested, the discovering party may move for
409 an order compelling an answer, or a designation, or an order com-
410 pelling inspection in accordance with the request. When taking a
411 deposition on oral examination, the proponent of the question may
412 complete or adjourn the examination before he applies for an order.

413 In ruling on such motion, the court may make such protective order
414 as it would have been empowered to make on a motion made pursuant
415 to rule 123.

416 (3) Evasive or incomplete answer. For purposes of this subdivi-
417 sion an evasive or incomplete answer is to be treated as a failure to
418 answer.

419 (4) Award of expenses of motion. If the motion is granted, the
420 court shall, after opportunity for hearing, require the party or
421 deponent whose conduct necessitated the motion or the party or
422 attorney advising such conduct or both of them to pay to the moving
423 party the reasonable expenses incurred in obtaining the order, includ-
424 ing attorney's fees, unless the court finds that the opposition to the
425 motion was substantially justified or that other circumstances make
426 an award of expenses unjust.

427 If the motion is denied, the court shall, after opportunity for hear-
428 ing, require the moving party or the attorney advising the motion
429 or both of them to pay to the party or deponent who opposed the
430 motion the reasonable expenses incurred in opposing the motion,

431 including attorney's fees, unless the court finds that the making of
432 the motion was substantially justified or that other circumstances
433 make an award of expenses unjust.

434 If the motion is granted in part and denied in part, the court may
435 apportion the reasonable expenses incurred in relation to the motion
436 among the parties and persons in a just manner.

437 (b) Failure to comply with order.

438 (1) Sanctions by court in district where deposition is taken. If a
439 deponent fails to be sworn or to answer a question after being directed
440 to do so by the court in the district in which the deposition is being
441 taken, the failure may be considered a contempt of that court.

442 (2) Sanctions by court in which action is pending. If a party or
443 an officer, director, or managing agent of a party or a person desig-
444 nated under rule 147(e) to testify on behalf of a party fails to obey
445 an order to provide or permit discovery, including an order made
446 under subdivision (a) of this rule or rule 132, the court in which the
447 action is pending may make such orders in regard to the failure as
448 are just, and among others the following:

449 (A) An order that the matters regarding which the order was
450 made or any other designated facts shall be taken to be established
451 for the purposes of the action in accordance with the claim of the
452 party obtaining the order;

453 (B) An order refusing to allow the disobedient party to support
454 or oppose designated claims or defenses, or prohibiting him from
455 introducing designated matters in evidence;

456 (C) An order striking out pleadings or parts thereof, or staying
457 further proceedings until the order is obeyed, or dismissing the action
458 or proceeding or any part thereof, or rendering a judgment by default
459 against the disobedient party;

460 (D) In lieu of any of the foregoing orders or in addition thereto,
461 an order treating as a contempt of court the failure to obey any orders
462 except an order to submit to a physical or mental examination.

463 In lieu of any of the foregoing orders or in addition thereto, the
464 court shall require the party failing to obey the order or the attorney
465 advising him or both to pay the reasonable expenses, including attor-
466 ney's fees, caused by the failure, unless the court finds that the
467 failure was substantially justified or that other circumstances make
468 an award of expenses unjust.

469 (c) Expenses on failure to admit. If a party fails to admit the
470 genuineness of any document or the truth of any matter as requested
471 under rule 127, and if the party requesting the admissions thereafter
472 proves the genuineness of the document or the truth of the matter, he
473 may apply to the court for an order requiring the other party to pay
474 him the reasonable expenses incurred in making that proof, including
475 reasonable attorney's fees. The court shall make the order unless it
476 finds that (1) the request was held objectionable pursuant to rule 127,
477 or (2) the admission sought was of no substantial importance, or
478 (3) the party failing to admit had reasonable ground to believe that
479 he might prevail on the matter, or (4) there was other good reason
480 for the failure to admit.

481 (d) Failure of party to attend at own deposition or serve answers
482 to interrogatories or respond to request for inspection. If a party
483 or an officer, director, or managing agent of a party or a person

484 designated under rule 147(e) to testify on behalf of a party fails
485 (1) to appear before the officer who is to take his deposition, after
486 being served with a proper notice, or (2) to serve answers or objec-
487 tions to interrogatories submitted under rule 126, after proper service
488 of the interrogatories, or (3) to serve a written response to a request
489 for inspection submitted under rule 129, after proper service of the
490 request, the court in which the action is pending on motion may make
491 such orders in regard to the failure as are just, and among others
492 it may take any action authorized under paragraphs (A), (B), and
493 (C) of subdivision (b)(2) of this rule. In lieu of any order or in
494 addition thereto, the court shall require the party failing to act or
495 the attorney advising him or both to pay the reasonable expenses,
496 including attorney's fees, caused* by the failure, unless the court finds
497 that the failure was substantially justified or that other circum-
498 stances make an award of expenses unjust.

499 The failure to act described in this subdivision may not be excused
500 on the ground that the discovery sought is objectionable unless the
501 party failing to act has applied for a protective order as provided by
502 rule 123.

503 **Rule 140. Depositions upon oral examination.**

504 That rule 140 be stricken and the following be substituted:

505 (a) When depositions may be taken. After commencement of the
506 action, any party may take the testimony of any person, including a
507 party, by deposition upon oral examination. Leave of court, granted
508 with or without notice, must be obtained only if the plaintiff seeks
509 to take a deposition prior to the expiration of 10 days after the
510 appearance date for any defendant, except that leave is not required
511 (1) if a defendant has served a notice of taking deposition or other-
512 wise sought discovery, or (2) if special notice is given as provided
513 in subdivision (b)(2) of this rule. The attendance of witnesses may
514 be compelled by subpoena as provided in rule 155. The deposition of
515 a person confined in prison may be taken only by leave of court on
516 such terms as the court prescribes.

517 (b) Notice of examination: General Requirements: Special Notice:
518 Nonstenographic recording: production of documents and things:
519 Deposition of organization.

520 (1) A party desiring to take the deposition of any person upon oral
521 examination shall give reasonable notice in writing to every other
522 party to the action. The notice shall state the time and place for
523 taking the deposition and the name and address of each person to be
524 examined, if known, and, if the name is not known, a general descrip-
525 tion sufficient to identify him or the particular class or group to
526 which he belongs. If a subpoena duces tecum is to be served on the
527 person to be examined, the designation of the materials to be pro-
528 duced as set forth in the subpoena shall be attached to or included
529 in the notice.

530 (2) Leave of court is not required for the taking of a deposition
531 by plaintiff if the notice (A) states that the person to be examined is
532 about to go out of the state and will be unavailable for examination
533 unless his deposition is taken before expiration of the 30-day period,
534 and (B) sets forth facts to support the statement. The plaintiff's

*According to enrolled Act.

535 attorney shall sign the notice, and his signature constitutes a certi-
536 fication by him that to the best of his knowledge, information, and
537 belief the statement and supporting facts are true.

538 If a party shows that when he was served with notice under this
539 subdivision (b) (2) he was unable through the exercise of diligence
540 to obtain counsel to represent him at the taking of the deposition,
541 the deposition may not be used against him.

542 (3) The court may for cause shown enlarge or shorten the time for
543 taking the deposition.

544 (4) The court may upon motion order that the testimony at a
545 deposition be recorded by other than stenographic means, in which
546 event the order shall designate the manner of recording, preserving,
547 and filing the deposition, and may include other provisions to assure
548 that the recorded testimony will be accurate and trustworthy. If the
549 order is made, a party may nevertheless arrange to have a steno-
550 graphic transcription made at his own expense.

551 (5) The notice to a party deponent may be accompanied by a re-
552 quest made in compliance with rules 129 and 130 for the production
553 of documents and tangible things at the taking of the deposition.
554 The procedure of rule 130 shall apply to the request.

555 (c) Failure to attend or to serve subpoena; expenses.

556 (1) If the party giving the notice of the taking of a deposition fails
557 to attend and proceed therewith and another party attends in person
558 or by attorney pursuant to the notice, the court may order the party
559 giving the notice to pay to such other party the reasonable expenses
560 incurred by him and his attorney in attending, including reasonable
561 attorney's fees.

562 (2) If the party giving the notice of the taking of a deposition of
563 a witness fails to serve a subpoena upon him and the witness does not
564 attend because of such failure, and if another party attends in person
565 or by attorney because he expects the deposition of that witness to be
566 taken, the court may order the party giving the notice to pay to such
567 other party the reasonable expenses incurred by him and his attorney
568 attending, including reasonable attorney's fees.

569 **Rule 141. Restrictions.**

570 That rule 141 be stricken and the following be substituted:

571 In small claims, depositions for discovery may not be taken unless
572 leave of court is first obtained on notice and showing of just cause
573 therefor and upon such terms as justice may require.

574 **Rule 143. Witness lists.**

575 That rule 143 be stricken and the following be substituted:

576 Except as provided in rule 122, a party shall not be required to list
577 the witnesses expected to be called at trial.

578 **Rule 147(e). Oral examination—notice.**

579 That the following paragraph be added to rule 147:

580 (e) A party may in his notice and in a subpoena name as the
581 deponent a public or private corporation or a partnership or associa-
582 tion or governmental agency and describe with reasonable particu-
583 larity the matters on which examination is requested. In that event,
584 the organization so named shall designate one or more officers, direc-
585 tors, or managing agents, or other persons who consent to testify on

586 its behalf, and may set forth, for each person designated, the matters
587 on which he will testify. A subpoena shall advise a non-party
588 organization of its duty to make such a designation. The persons
589 so designated shall testify as to matters known or reasonably avail-
590 able to the organization. This paragraph does not preclude taking a
591 deposition by any other procedure authorized in these rules.

592 **Rule 148. Conduct of oral examination.**

593 That rule 148 be stricken and the following be substituted:

594 (a) Examination and cross-examination; record of examination;
595 oath; objections. Examination and cross-examination of witnesses
596 may proceed as permitted at the trial. The officer before whom the
597 deposition is to be taken shall put the witness on oath and shall
598 personally, or by someone acting under his direction and in his
599 presence, record the testimony of the witness. The testimony shall
600 be taken stenographically or recorded by any other means ordered
601 in accordance with rule 140(b) (4). If requested by one of the parties,
602 the testimony shall be transcribed. All objections made at the time
603 of the examination to the qualifications of the officer taking the
604 deposition, or to the manner of taking it, or to the evidence presented,
605 or to the conduct of any party, and any other objection to the pro-
606 ceedings, shall be noted by the officer upon the deposition. Evidence
607 objected to shall be taken subject to the objections. In lieu of par-
608 ticipating in the oral examination, parties may serve written ques-
609 tions in a sealed envelope on the party taking the deposition and he
610 shall transmit them to the officer, who shall propound them to the
611 witness and record the answers verbatim.

612 (b) Motion to terminate or limit examination. At any time during
613 the taking of the deposition, on motion of a party or of the deponent
614 and upon a showing that the examination is being conducted in bad
615 faith or in such manner as unreasonably to annoy, embarrass, or
616 oppress the deponent or party, the court in which the action is pend-
617 ing or the court in the district where the deposition is being taken
618 may order the officer conducting the examination to cease forthwith
619 from taking the deposition, or may limit the scope and manner of the
620 taking of the deposition as provided in rule 123. If the order made
621 terminates the examination, it shall be resumed thereafter only upon
622 the order of the court in which the action is pending. Upon demand
623 of the objecting party or deponent, the taking of the deposition shall
624 be suspended for the time necessary to make a motion for an order.
625 The provisions of rule 134(a) (4) apply to the award of expenses
626 incurred in relation to the motion.

627 **Rule 149. Reading and signing.**

628 That rule 149(b) be stricken and the following be substituted:

629 (b) Submission to witness; changes, signing. In other cases, when
630 the testimony is fully transcribed the deposition shall be submitted
631 to the witness for examination and shall be read to or by him, unless
632 such examination and reading are waived by the witness and by the
633 parties. Any changes in form or substance which the witness desires
634 to make shall be entered upon the deposition by the officer with a
635 statement of the reasons given by the witness for making them. If
636 rule 149(a) is not applicable, the deposition shall then be signed by
637 the witness, unless the parties by stipulation waive the signing or

638 the witness is ill or dead or cannot be found or refuses to sign. If
 639 the deposition is not signed by the witness within 30 days of its sub-
 640 mission to him, the officer shall sign it and state on the record the
 641 fact of the waiver or of the illness, death, or absence of the witness
 642 or the fact of the refusal to sign together with the reason, if any,
 643 given therefor; and the deposition may then be used as fully as
 644 though signed unless on a motion to suppress under rule 158(f) the
 645 court holds that the reason given for the refusal to sign require
 646 rejection of the deposition in whole or in part.

647 **Rule 152. Certification and return—copies.**

648 That subsections (a) and (c) of rule 152 be stricken and the follow-
 649 ing be substituted:

650 (a) The officer shall certify on the deposition that the witness was
 651 duly sworn by him and that the deposition is a true record of the
 652 testimony given by the witness. He shall then securely seal the
 653 deposition in an envelope endorsed with the title of the action and
 654 marked "Deposition of (here insert name of witness)" and shall
 655 promptly file it with the court in which the action is pending or send
 656 it by registered or certified mail to the clerk thereof for filing.

657 Documents and things produced for inspection during the examina-
 658 tion of the witness shall, upon the request of a party, be marked for
 659 identification and annexed to and returned with the deposition, and
 660 may be inspected and copied by any party, except that (A) the person
 661 producing the materials may substitute copies to be marked for
 662 identification, if he affords to all parties fair opportunity to verify
 663 the copies by comparison with the originals, and (B) if the person
 664 producing the materials requests their return, the officer shall mark
 665 them, give each party an opportunity to inspect and copy them, and
 666 return them to the person producing them, and the materials may
 667 then be used in the same manner as if annexed to and returned with
 668 the deposition. Any party may move for an order that the original
 669 be annexed to and returned with the deposition to the court, pending
 670 final disposition of the case.

671 (c) Upon payment of reasonable charges therefor, the officer shall
 672 furnish a copy of the deposition to any party or to the deponent.

673 **Rule 155. Subpoena.**

674 That rule 155 be stricken and the following be substituted:

675 (a) On application of any party, or proof of service of a notice to
 676 take depositions under rule 147 or rule 150, the clerk of court where
 677 the action is pending shall issue subpoenas for persons named in and
 678 described in said notice or application. Subpoenas may also be issued
 679 as provided by statute:

680 (b) No resident of Iowa shall be thus subpoenaed to attend out of
 681 the county where he resides, or is employed, or transacts his business
 682 in person.

683 (c) A subpoena may also command the person to whom it is
 684 directed to produce the books, papers, documents or tangible things
 685 designated therein; but the court, upon motion promptly made by the
 686 person to whom the subpoena is directed, or by any other person
 687 stating an interest in the documents affected, and in any event at or
 688 before the time specified in the subpoena for compliance therewith,
 689 may (1) quash or modify the subpoena if it is unreasonable and

690 oppressive or (2) condition denial of the motion upon the advance-
691 ment by the person in whose behalf the subpoena is issued of the
692 reasonable cost of producing the books, papers, documents or tangible
693 things.

694 **Rule 179. Findings of court.**

695 That the first sentence of rule 179(b) be stricken and the following
696 be substituted:

697 On motion joined with or filed within the time allowed for a motion
698 for new trial, the findings and conclusions may be enlarged or
699 amended and the judgment or decree modified accordingly or a
700 different judgment or decree substituted.

701 **Rule 196. Instructions.**

702 1. That present rule 196 be designated paragraph "(a)" of rule 196.

703 2. That the following sentence be stricken from present rule 196:
704 "Before reading them to the jury, the court shall submit to counsel
705 its instructions in their final form, noting this fact of record, and
706 granting reasonable time for counsel to make objections after argu-
707 ment to the jury and before the instructions are read to the jury.;"
708 and that the following be substituted:

709 "Before jury arguments, the court shall give to each counsel a copy
710 of its instructions in their final form, noting this fact of record and
711 granting reasonable time for counsel to make objections, which shall
712 be made and ruled on before arguments to the jury."

713 **Rule 203. Rendering verdict.**

714 1. That the title to rule 203 be changed to "rule 203. **Rendering**
715 **verdict and answering interrogatories.**"

716 2. That rule 203(a) and 203(b) be stricken and the following be
717 substituted:

718 (a) Number. Before a general verdict, special verdicts, or answers
719 to interrogatories are returned, the parties may stipulate that the
720 finding may be rendered by a stated majority of the jurors. In the
721 absence of such stipulation, a general verdict, special verdicts, or
722 answers to interrogatories may be rendered by five-sixths of the
723 jurors.

724 (b) Return—poll. The jury agreeing on a general verdict, special
725 verdicts, or answers to interrogatories shall bring the finding into
726 court where it shall be read to the jury and inquiry made if it is the
727 jury's finding. A party may then require a poll, whereupon the court
728 or clerk shall ask each juror if it is his finding. If the required
729 number of jurors do not express agreement, the jury shall be sent
730 out for further deliberation; otherwise, the finding is complete and
731 the jury shall be discharged.

732 3. That the word "verdict" be stricken in line 3 of rule 203(c), and
733 "finding" be substituted.

734 **Rule 204. Form and entry of verdict.**

735 That rule 204 be stricken and the following be substituted:

736 **Rule 204. Form and entry of verdicts.** General verdicts, special
737 verdicts, and answers to interrogatories shall be in writing. When
738 unanimous they shall be signed by the foreman chosen by the
739 jury, and when they are not unanimous they shall be signed by
740 all jurors concurring therein. They shall be sufficient in form if

741 they express the intent of the jury. They shall be filed with the
742 clerk and be entered of record after being put in form by the court
743 if need be.

744 **Rule 248. Nonwaiver.**

745 That rule 248 be stricken and the following substituted:

746 **Rule 248. Conditional rulings on grant of motion.** Any motion
747 may be filed under rule 243 or 244 without waiving the right to file or
748 rely on any other of such motions.

749 (a) If the motion for judgment notwithstanding the verdict pro-
750 vided for in rule 243 is granted, the court shall also rule on the motion
751 for a new trial, if any, by determining whether it should be granted
752 if the judgment is thereafter vacated or reversed, and shall specify
753 the grounds for granting or denying the motion for the new trial.
754 If the motion for a new trial is thus conditionally granted, the order
755 thereon does not affect the finality of the judgment. In case the
756 motion for a new trial has been conditionally granted and the judg-
757 ment is reversed on appeal, the new trial shall proceed unless other-
758 wise ordered by the supreme court. In case the motion for a new trial
759 has been conditionally denied, the appellee on appeal may assert error
760 in that denial; and if the judgment is reversed on appeal, subsequent
761 proceedings shall be in accordance with the order of the supreme
762 court.

763 (b) The party whose verdict has been set aside on motion for judg-
764 ment notwithstanding the verdict may file a motion for a new trial
765 pursuant to rule 244, not later than 10 days after the entry of the
766 judgment notwithstanding the verdict.

767 **Rule 297. Paying small sums.**

768 That rule 297 be amended by striking "five hundred dollars" in lines
769 3 and 4 and by substituting "one thousand dollars."

770 **Rule 319. Limitation.**

771 That the words "six months" be stricken from line three of rule 319
772 and "thirty days" be substituted.

773 **Rule 369. Effect of notice by posting.**

774 That rule 369 be stricken and the following be substituted:

775 Notice by posting shall not have legal effect except where expressly
776 authorized by statute.

777

Respectfully submitted,

778

THE SUPREME COURT OF IOWA

779

s/ C. EDWIN MOORE,

780

CHIEF JUSTICE

781 Des Moines, Iowa

782 January 18, 1973

783

ACKNOWLEDGEMENT

784 I, Carroll A. Lane, Secretary of the Senate of the State of Iowa,
785 hereby acknowledge delivery to me on the 18th day of January, 1973

786 of the foregoing report of the Supreme Court of Iowa pertaining to
787 Rules of Civil Procedure.

788 s/ CARROLL A. LANE
789 Secretary of the Senate
790 1973 Regular Session
791 Sixty-fifth General Assembly
792 of the State of Iowa

793 ACKNOWLEDGEMENT

794 I, William H. Harbor, Chief Clerk of the House of Representatives
795 of the State of Iowa, hereby acknowledge delivery to me on this 18th
796 day of January, 1973 of the foregoing report of the Supreme Court of
797 Iowa pertaining to Rules of Civil Procedure.

798 s/ WILLIAM H. HARBOR
799 Chief Clerk of the
800 House of Representatives
801 1973 Regular Session
802 Sixty-fifth General Assembly
803 of the State of Iowa

804 CERTIFICATE

805 I, Arthur A. Neu, do hereby certify that I am the President of the
806 Senate of the 1973 Regular Session of the Sixty-fifth General Assem-
807 bly of the State of Iowa; and I, Ralph R. Brown, do hereby certify
808 that I am the Secretary of the Senate of the 1973 Regular Session
809 of the Sixty-fifth General Assembly of the State of Iowa, and we do
810 hereby jointly certify that as such President and Secretary that on
811 the eighteenth day of January, 1973, the Supreme Court of the State
812 of Iowa reported to said Senate, and filed with it, the attached and
813 foregoing modifications, amendments, revisions and additions to the
814 Rules of Civil Procedure, heretofore reported by said Supreme Court
815 to the Fiftieth General Assembly of the State of Iowa;

816 THAT the date of making said report to the 1973 Regular Session
817 of the Sixty-fifth General Assembly was within the twenty days sub-
818 sequent to the convening of the 1973 Regular Session of the Sixty-
819 fifth General Assembly;

820 THAT no other report pertaining to the Rules of Civil Procedure
821 was made or filed by said Supreme Court with said Senate;

822 THAT there was enacted at such 1973 Regular Session of the Sixty-
823 fifth General Assembly an Act known as Senate File 514, wherein:

824 (1) Proposed Rule thirty-four (34), unnumbered para-
825 graph one (1) was amended to read as follows:

826 That "Rule ~~31~~ 33" be stricken from line 2 of rule
827 74 and "rules 33 and 34" be substituted, that "(a)
828 AGAINST COPARTIES." be stricken from rule 33, and
829 that rules 33(b) and 34 be stricken and the following
830 be substituted:

831 (2) Proposed Rule one hundred ninety-six (196) was
832 amended by striking subdivision one (1).

833 (3) Proposed Rule one hundred twenty-two (122) sub-
834 division three (3), unnumbered paragraph two (2) was
835 amended to read as follows:

836 A party may obtain without the required showing a state-
837 ment concerning the action or its subject matter previously

838 made by that party. Upon request, a person not a party may
 839 obtain without the required showing a statement concerning
 840 the action or its subject matter previously made by that
 841 person. If the request is refused, the person may move for
 842 a court order. The provisions of rule 134(a)(4) apply to
 843 the award of expenses incurred in relation to the motion.
 844 For purposes of this paragraph, a statement previously
 845 made ~~in~~ *is* (A) a written statement signed or otherwise
 846 adopted or approved by the person making it, or (B) a
 847 stenographic, mechanical, electrical, or other recording, or
 848 a transcription thereof, which is a substantially verbatim
 849 recital of an oral statement by the person making it and
 850 contemporaneously recorded.

851 (4) Proposed Rule two hundred three (203), subdivision
 852 two (2), paragraph (a) was amended by adding the follow-
 853 ing new sentence:

854 However, no general verdict, special verdict, or
 855 answers to interrogatories may be rendered by five-
 856 sixths of the jurors or less until the jurors have
 857 deliberated for a period of not less than six hours
 858 after the issues to be decided have been submitted
 859 to them.

860 THAT no other or different changes, modifications, amendments,
 861 revisions or additions to the Rules of Civil Procedure were made or
 862 enacted at such 1973 Regular Session of said Sixty-fifth General
 863 Assembly.

864 Signed this twenty-fourth day of June, 1973, being the last legis-
 865 lative day of the 1973 Regular Session of the Sixty-fifth General
 866 Assembly.

867 s/ ARTHUR A. NEU
 868 President of the Senate

869 s/ RALPH R. BROWN
 870 Secretary of the Senate
 871 1973 Regular Session of the Sixty-
 872 fifth General Assembly of the State
 873 of Iowa

874 CERTIFICATE

875 I, Andrew Varley, do hereby certify that I am the Speaker of the
 876 House of Representatives of the 1973 Regular Session of the Sixty-
 877 fifth General Assembly of the State of Iowa; and I, William H.
 878 Harbor, do hereby certify that I am the Chief Clerk of the House of
 879 Representatives of the 1973 Regular Session of the Sixty-fifth Gen-
 880 eral Assembly of the State of Iowa, and we do hereby jointly certify
 881 that as such Speaker and Chief Clerk that on the eighteenth day of
 882 January, 1973, the Supreme Court of the State of Iowa reported to
 883 said House of Representatives, and filed with it, the attached and
 884 foregoing modifications, amendments, revisions and additions to the
 885 Rules of Civil Procedure, heretofore reported by said Supreme Court
 886 to the Fiftieth General Assembly of the State of Iowa;

887 THAT the date of making said report to the 1973 Regular Session
 888 of the Sixty-fifth General Assembly was within the twenty days sub-

889 sequent to the convening of the 1973 Regular Session of the Sixty-
890 fifth General Assembly;

891 THAT no other report pertaining to the Rules of Civil Procedure
892 was made or filed by said Supreme Court with said House of Repre-
893 sentatives;

894 THAT there was enacted at such 1973 Regular Session of the Sixty-
895 fifth General Assembly an Act known as Senate File 514, wherein:

896 (1) Proposed Rule thirty-four (34), unnumbered para-
897 graph one (1) was amended to read as follows:

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899 74 and "rules 33 and 34" be substituted, that "(a)
900 AGAINST COPARTIES." be stricken from rule 33, and
901 that rules 33(b) and 34 be stricken and the following
902 be substituted:

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904 amended by striking subdivision one (1).

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906 division three (3), unnumbered paragraph two (2) was
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908 A party may obtain without the required showing a state-
909 ment concerning the action or its subject matter previously
910 made by that party. Upon request, a person not a party may
911 obtain without the required showing a statement concerning
912 the action or its subject matter previously made by that
913 person. If the request is refused, the person may move for
914 a court order. The provisions of rule 134(a)(4) apply to
915 the award of expenses incurred in relation to the motion.
916 For purposes of this paragraph, a statement previously
917 made *in is* (A) a written statement signed or otherwise
918 adopted or approved by the person making it, or (B) a
919 stenographic, mechanical, electrical, or other recording, or
920 a transcription thereof, which is a substantially verbatim
921 recital of an oral statement by the person making it and
922 contemporaneously recorded.

923 (4) Proposed Rule two hundred three (203), subdivision
924 two (2), paragraph (a) was amended by adding the follow-
925 ing new sentence:

926 However, no general verdict, special verdict, or
927 answers to interrogatories may be rendered by five-
928 sixths of the jurors or less until the jurors have
929 deliberated for a period of not less than six hours
930 after the issues to be decided have been submitted
931 to them.

932 THAT no other or different changes, modifications, amendments,
933 revisions or additions to the Rules of Civil Procedure were made or
934 enacted at such 1973 Regular Session of said Sixty-fifth General
935 Assembly.

936 Signed this twenty-fourth day of June, 1973, being the last legis-

937 lative day of the 1973 Regular Session of the Sixty-fifth General
 938 Assembly.
 939 s/ ANDREW VARLEY
 940 Speaker of the House
 941 s/ WILLIAM H. HARBOR
 942 Chief Clerk of the
 943 House of Representatives
 944 1973 Regular Session of the Sixty-
 945 fifth General Assembly of the State
 946 of Iowa

SENATE CONCURRENT RESOLUTION 12

By Committee on Higher Education

WHEREAS, chapter two hundred sixty-three A (263A), Code 1973, provides that the state board of regents after authorization by a constitutional majority of the General Assembly may carry out any project as defined in that chapter of the Code at the state university of Iowa; and

WHEREAS, chapter two hundred sixty-three A (263A), Code 1973, authorizes the state board of regents to borrow money and to issue and sell negotiable bonds or notes to pay all or any part of the cost of carrying out such projects at the institution payable solely and only from and secured by an irrevocable pledge of a sufficient portion of the University Hospital Income; and

WHEREAS, many of the facilities of the hospitals at the state university of Iowa were built between forty and fifty years ago and are inadequate to meet present and future demands for statewide medical and teaching services; and

WHEREAS, said inadequacy exists in operating room facilities which are located in several different areas at the university hospitals and are not designed for today's advanced surgical techniques and workload of more than fifteen thousand operations annually; and

WHEREAS, present space available for radiological services, one of the most important fields in modern medicine, is less than that recommended by the U. S. Public Health Services for a prototype hospital of five hundred beds although the university hospitals have eleven hundred ninety-two beds; and

WHEREAS, the out-patient clinical facilities are located in widely separated areas of the hospitals and seriously encumber the ability of the clinical specialists to handle almost one-quarter million patient visits annually and concentration of these services in a single area will greatly facilitate services to patients and training for family practice, and improve efficiency; and

WHEREAS, twenty percent or two hundred forty of the beds serving annually more than thirty-three thousand in-patients are located in large sixteen- to twenty-bed wards and do not meet the standards established for Medicare patients or the demands by private patients and, further, detailed studies have shown that remodeling these existing large wards into smaller units would be prohibitively costly and create insurmountable problems in teaching; and

WHEREAS, to alleviate these conditions, the state board of regents requests authorization to construct an eight-story addition of one hundred sixty-eight thousand gross square feet north of the general hospital, to house an operating room suite and facilities, a diagnostic radiology section, out-patient clinic, and in-patient facilities for eighty beds, at an estimated total cost of thirteen million nine hundred thousand dollars (\$13,900,000) of which not more than ten million dollars (\$10,000,000) would be financed by borrowing under the provisions of chapter two hundred sixty-three A (263A), Code 1973, and the remainder to be financed by other funds; Now THEREFORE

Be It Resolved by the Senate the House Concurring, that the state board of regents be and is hereby authorized to construct an addition of one hundred sixty-eight thousand gross square feet of floor space, more or less, to the general hospital of the state university of Iowa to house an operating room suite and facilities, a diagnostic radiology section, out-patient clinic, and in-patient facilities at an estimated cost of thirteen million nine hundred thousand dollars (\$13,900,000) of which not more than ten million (\$10,000,000) would be financed by borrowing authorized by the provisions of chapter two hundred sixty-three A (263A), Code 1973.

Approved June 13, 1973.