

RULES OF CIVIL PROCEDURE

CHAPTER 173

RULES OF CIVIL PROCEDURE

[See Section 684.19 of the Code]

IN THE MATTER OF

THE

RULES OF CIVIL PROCEDURE



REPORT OF THE

SUPREME COURT

TO THE 1979 REGULAR SESSION OF THE SIXTY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF IOWA:

Pursuant to sections 684.18(1) and 684.19, The Code, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly changes in the Rules of Civil Procedure as follows:

Rule 82(d).

That rule 82(d) be amended to read as follows:

"(d) Filing. All papers after the petition required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter. Whenever these rules or the rules of appellate procedure require a filing with the district court or its clerk within a certain time, the time requirement shall be tolled when service is made, provided the actual filing is done ~~said-filing--shall--be--deemed--timely--if service--is--made--within--said--time--and--filing--is--completed~~ within a reasonable time thereafter."

Rule 136.

That rule 136 be amended to read as follows:

"136. Readiness schedule, Pretrial conference.

(a) Readiness schedule. After issues are joined a party may move for an order setting dates for closing of pleadings and completion of discovery. The motion shall contain suggested dates and a concise supporting explanation. Any response to the motion shall suggest alternative dates, if desired, and shall, in that event, also include a concise supporting explanation. Upon submission of the motion, the court shall fix dates for closing of pleadings and completion of discovery, which shall not be extended except upon a showing of good cause.

(b) Pretrial conference. After issues are joined the court may in its discretion, and shall on written request of any attorney in the case, direct all attorneys in the action to appear before it for a conference to consider, so far as applicable to the particular case:

{a} (1) The necessity or desirability of amending pleadings by formal amendment or pretrial order;

{b} (2) Agreeing to admission of facts, documents or records not really controverted, to avoid unnecessary proof;

{c} (3) Limiting the number of expert witnesses;

{d} (4) Settling any facts of which the court is to be asked to take judicial notice;

{e} (5) Stating and simplifying the factual and legal issues to be litigated;

{f} (6) Specifying all damage claims in detail as of the date of the conference;

{g} (7) All proposed exhibits and mortality tables and proof thereof;

{h} (8) Consolidation, separation for trial, and determination of points of law;

{i} (9) Questions relating to voir dire examination of jurors and selection of alternate jurors, to serve if a juror becomes incapacitated;

{j} (10) Possibility of settlement;

{k} (11) Filing of advance briefs when required;

(12) Setting dates for closing of pleadings and discovery;

(13) Assigning a date for trial;

{l} (14) Any other matter which may aid, expedite or simplify the trial of any issue.

The pretrial judge may direct the parties to the action to be present or immediately available at the time of conference."

Rule 177(b).

That rule 177(b) be amended to read as follows:

"(b) A party desiring jury trial of an issue must make written demand therefor by filing a separate instrument clearly designating such demand not later than ten days after the last pleading directed to that issue. ~~A copy thereof must be filed for each adverse party appearing and it shall be mailed or delivered by the clerk in the manner provided by rule 82.~~ If filed with the petition, the jury demand shall be served with the original notice and petition. If filed after the petition, the jury demand shall be served and filed in accordance with rule 82."

Rule 181.

That rule 181 be stricken and the following new rule 181 be substituted:

"181. Trial certificate, response.

(a) When a trial certificate is filed in any action, the action shall be entered on the Trial Certificate List. The certificate shall be in the following form:



jury or nonjury case, and (5) if removed from list, date of such removal. If removed by order of court the clerk may relist it only upon the filing of a new trial certificate ~~of readiness~~. If not so removed, actions will remain on list until final disposition."

Rule 181.2.

That rule 181.2 be stricken and the following new rule 181.2 be substituted:

"181.2. Trial assignments.

(a) Civil cases. On each motion day, the clerk of court shall present to the court the file in each civil case in which a trial certificate has been on file, without objection, for more than twenty days. The case shall then be scheduled for pretrial conference, if requested by a party or ordered by the court. At the pretrial conference the court shall determine whether the case is ready for trial. If it is ready, the case shall be assigned for trial. If it is not ready, the court shall fix the date by which the case will be ready. On the first motion day after that date, unless it is extended for good cause, the clerk shall return the file to the court and the case shall be assigned for trial. If there is no pretrial conference, the court shall, nevertheless, obtain the information necessary to make the same determinations and the same assignment procedure shall be followed.

Any civil case may be assigned for trial even though a trial certificate has not been served and filed.

(b) Small claims appeals. On each motion day, the clerk of court shall present to the presiding judge the file and any transcript or exhibits in each small claims case in which appeal was taken more than twenty days previously. The judge will decide the appeal upon the record without oral argument unless, within twenty days after the appeal was taken, a party filed with the clerk of court a written request for oral argument specifying the issues to be argued, in which event the judge shall schedule oral argument. Additional evidence shall not be received except as authorized by statute."

Rule 372.

That rule 372 be amended to read as follows:

"372. Rules by trial courts. Each district, ~~superior and municipal~~ court, by action of a majority of its district judges, may from time to time make and amend rules governing its practice and administration not inconsistent with these rules. A copy of all rules in effect July 4, 1961, and any amendments thereafter made by any such court shall be transmitted to the clerk of the supreme court. In all cases not provided for by rule courts may regulate their practice in any manner not inconsistent with these rules."

Rule 377.

That rule 377 be amended to read as follows:

"377. Duties and powers of chief judges. In addition to their ordinary duties, chief judges shall exercise continuing administrative supervision within their respective districts over all district courts, judges, magistrates, officials and employees thereof for the purposes stated in rule

373. They shall by order fix times and places of holding court and designate the respective presiding judges and magistrates; they shall supervise and direct the performance of all administrative business of their district courts; ~~they may call meetings of the municipal judges in their district for the purpose of considering mutual problems,~~ they may conduct judicial conferences of their district judges, district associate judges, and magistrates to consider, study and plan for improvement of the administration of justice; and may make such administrative orders as necessary. No chief judge shall at any time direct or influence any judge or magistrate in any ruling or decision in any proceeding or matter whatsoever.

The chief judge of a judicial district may appoint from the other district judges an assistant or assistants to serve on a judicial district-wide basis and at his pleasure. When so acting, such an assistant shall have those powers and duties given to the chief judge by statute or rule of court which are specified in the order of his appointment. Such appointment shall by general order be made a matter of record in each county in the judicial district."

Form 4, APPENDIX OF FORMS.

That footnote (1) of Form 4 be amended to read as follows:

"(1) Here make a general statement of the cause claim or causes-of-action claims and the relief demanded, and, if for money, the amount thereof (Rule 50)."

Respectfully submitted,  
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson  
W. W. Reynoldson, Chief Justice

Des Moines, Iowa

January 26, 1979

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the twenty-sixth day of January, 1979, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Civil Procedure.

/s/ Frank J. Stork  
Secretary of the Senate, 1979 Regular  
Session of the Sixty-Eighth General  
Assembly of the State of Iowa

ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the twenty-sixth day of January, 1979, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Civil Procedure.

/s/ David L. Wray  
Chief Clerk of the House of Represen-  
tatives, 1979 Regular Session of the  
Sixty-Eighth General Assembly of the  
State of Iowa

## CERTIFICATE

I, Terry E. Branstad, do hereby certify that I am the President of the Senate of the 1979 Regular Session of the Sixty-eighth General Assembly of the State of Iowa; and I, Frank J. Stork, do hereby certify that I am the Secretary of the Senate of the 1979 Regular Session of the Sixty-eighth General Assembly of the State of Iowa, and we do hereby jointly certify that as such President and Secretary that on the twenty-sixth day of January, 1979, the Supreme Court of the State of Iowa reported to said Senate, and filed with it, the attached and foregoing Rules of Civil Procedure;

THAT the date of making said report to the 1979 Regular Session of the Sixty-eighth General Assembly was within the twenty days subsequent to the convening of the 1979 Regular Session of the Sixty-eighth General Assembly;

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

THAT no changes, modifications, amendments, revisions or additions to the Rules of Civil Procedure were made or enacted at such 1979 Regular Session of said Sixty-eighth General Assembly.

Signed this 11th day of May, 1979, being the last legislative day of the 1979 Regular Session of the Sixty-eighth General Assembly.

/s/ Terry E. Branstad

TERRY E. BRANSTAD

President of the Senate

/s/ Frank J. Stork

FRANK J. STORK

Secretary of the Senate, 1979  
Regular Session of the Sixty-  
eighth General Assembly of the  
State of Iowa.

## CERTIFICATE

I, Floyd H. Millen, do hereby certify that I am the Speaker of the House of Representatives of the 1979 Regular Session of the Sixty-eighth General Assembly of the State of Iowa; and I, David L. Wray, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1979 Regular Session of the Sixty-eighth General Assembly of the State of Iowa, and we do hereby jointly certify that as such Speaker and Chief Clerk that on the twenty-sixth day of January, 1979, the Supreme Court of the State of Iowa reported to said House of Representatives, and filed with it, the attached and foregoing Rules of Civil Procedure;

THAT the date of making said report to the 1979 Regular Session of the Sixty-eighth General Assembly was within the twenty days subsequent to the convening of the 1979 Regular Session of the Sixty-eighth General Assembly;

THAT no other report pertaining to the Rules of Civil procedure was made or filed by said Supreme Court with said House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Civil Procedure were made or enacted at such 1979 Regular Session of said Sixty-eighth General Assembly.

Signed this 11th day of May, 1979, being the last legislative day of the 1979 Regular Session of the Sixty-eighth General Assembly.

/s/ Floyd H. Millen

FLOYD H. MILLEN

Speaker of the House

/s/ David L. Wray

DAVID L. WRAY

Chief Clerk of the House of Representatives, 1979 Regular Session of the Sixty-eighth General Assembly of the State of Iowa.