
RULES OF APPELLATE PROCEDURE
CHAPTER 216
RULES OF APPELLATE PROCEDURE

IN THE MATTER OF THE
 RULES OF APPELLATE PROCEDURE

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REPORT OF THE
 SUPREME COURT

TO THE 1981 REGULAR SESSION OF THE SIXTY-NINTH GENERAL ASSEMBLY OF THE STATE OF IOWA:

Pursuant to sections 684.18(2) and 684.19, The Code, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly changes in existing rules of Appellate Procedure as follows:

Rule 3.

That rule 3 be amended as follows:

"Rule 3. AMOUNT IN CONTROVERSY. ~~Subject to section 631.16 of the Code and except~~ Except where the action involves an interest in real estate, no appeal shall be taken in any case, not originally tried as a small claim, where the amount in controversy, as shown by the pleadings, is less than three thousand dollars unless the ~~trial judge, within thirty days after the judgment or order is entered,~~ supreme court or a justice thereof certifies that the cause is one in which appeal should be allowed. An application to certify an appeal shall comply with rule 16(b), rules of appellate procedure, be filed with the clerk of the supreme court and served pursuant to rule 30, rules of appellate procedure, and, unless otherwise ordered by the supreme court or a justice or the clerk thereof, may be resisted and will be ruled upon pursuant to rules 22(c) and 22(d), rules of appellate procedure. The right of appeal is not affected by any remission of any part of the verdict or judgment. An action originally tried as a small claim may be reviewed by the supreme court only as provided in section 631.16, The Code, and rules 201-203, rules of appellate procedure."

Rule 5(a)

That rule 5(a) be amended as follows:

"(a) Appeals to the supreme court must be taken within, and not after, thirty days from the entry of the order, judgment or decree, unless a motion for new trial or judgment notwithstanding the verdict as provided in rule 247, rules of civil procedure, or a motion as provided in rule 179(b), rules

of civil procedure, is filed, and then within thirty days after the entry of the ruling on such motion; provided however that where an application to the supreme court or any justice thereof to grant or certify an appeal under rule 2 or 3, rules of appellate procedure, is made within thirty days from the date of ~~such~~ the ruling or, decision, or judgment sought to be reviewed, any appeal allowed or certified upon such application shall be deemed timely taken.

Provided further that if the supreme court or any justice determines that the order or decision from which application to appeal under rule 2, rules of appellate procedure, is timely made is a final judgment or decision from which appeal would lie under rule 1, rules of appellate procedure, an appeal therefrom shall also be deemed timely taken and perfected when the order making such determination is filed with the clerk of the supreme court, and rule 6(b), rules of appellate procedure, shall apply.

Provided further that if the supreme court or any justice thereof determines that a case, for which a timely application has been made for certification under rule 3, rules of appellate procedure, is appealable as a matter of right without such certification, the appeal shall be deemed timely and perfected when the order making such determination is filed with the clerk of the supreme court. Rule 6(b), rules of appellate procedure, shall then apply.

A cross-appeal may be taken within the thirty days for taking an appeal or in any event within five days after the appeal is taken."

Rule 6.

That rule 6 be amended as follows:

"Rule 6. HOW TAKEN.

(a) An appeal other than those allowed or certified by order under rule 2, rule 3 or rule 5(a), rules of appellate procedure, is taken and perfected by filing a notice with the clerk of the court where the order, judgment or decree was entered, signed by appellant or his attorney. It shall specify the parties taking the appeal and the decree, judgment, order or part thereof appealed from. The appellant shall serve a copy of the notice on each other party or his counsel in the manner prescribed in rule 82(b), rules of civil procedure. The notice presented to the clerk of the trial court for filing shall be accompanied by a proof of service in the form prescribed in rule 82(g), rules of civil procedure. Promptly after filing the notice of appeal with the clerk of the trial court appellant shall mail or deliver to the clerk of the supreme court a copy of such notice for his information.

(b) An interlocutory appeal under rule 2, rules of appellate procedure, or an appeal certified under rule 3, rules of appellate procedure, shall be deemed taken and perfected when the order allowing or certifying it is filed with the clerk of the supreme court. No notice of such appeal is necessary. The time for any further proceeding on such appeal which would run from the notice of appeal shall run from the date such order is so filed. The clerk of the supreme court shall promptly transmit a copy of such order to the

attorneys of record and the clerk of the trial court. The clerk of the trial court shall timely comply with rule 11(a), rules of appellate procedure."

Respectfully submitted,
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa
January 29, 1981

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the twenty-ninth day of January, 1981, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Appellate Procedure.

/s/ Linda Howarth Mackay
Secretary of the Senate, 1981
Regular Session of the Sixty-
ninth 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-ninth day of January, 1981, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Appellate Procedure.

/s/ Pat H. Harper
Chief Clerk of the House of
Representatives, 1981 Regular
Session of the Sixty-ninth
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 1981 Regular Session of the Sixty-ninth General Assembly of the State of Iowa; and I, Linda Howarth Mackay, do hereby certify that I am the Secretary of the Senate of the 1981 Regular Session of the Sixty-ninth General Assembly of the State of Iowa, and we do hereby jointly certify that as such President and Secretary that on the twenty-ninth day of January, 1981, the Supreme Court of the State of Iowa reported to said Senate, and filed with it, the attached and foregoing Rules of Appellate Procedure;

THAT the date of making said report to the 1981 Regular Session of the Sixty-ninth General Assembly was within the twenty days subsequent to the convening of the 1981 Regular Session of the Sixty-ninth General Assembly;

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

THAT no changes, modifications, amendments, revisions or additions to the Rules of Appellate Procedure were made or enacted at such 1981 Regular Session of said Sixty-ninth General Assembly.

Signed this 22nd day of May, 1981, being the sine die adjournment of the 1981 Regular Session of the Sixty-ninth General Assembly.

/s/ Terry E. Branstad

TERRY E. BRANSTAD

President of the Senate

/s/ Linda Howarth Mackay

LINDA HOWARTH MACKAY

Secretary of the Senate, 1981
Regular Session of the Sixty-
ninth General Assembly of the
State of Iowa.

CERTIFICATE

I, Delwyn Stromer, do hereby certify that I am the Speaker of the House of Representatives of the 1981 Regular Session of the Sixty-ninth General Assembly of the State of Iowa; and I, Pat H. Harper, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1981 Regular Session of the Sixty-ninth General Assembly of the State of Iowa, and we do hereby jointly certify that as such Speaker and Chief Clerk that on the twenty-ninth day of January, 1981, the Supreme Court of the State of Iowa reported to said House of Representatives, and filed with it, the attached and foregoing Rules of Appellate Procedure;

THAT the date of making said report to the 1981 Regular Session of the Sixty-ninth General Assembly was within the twenty days subsequent to the convening of the 1981 Regular Session of the Sixty-ninth General Assembly;

THAT no other report pertaining to the Rules of Appellate 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 Appellate Procedure were made or enacted at such 1981 Regular Session of said Sixty-ninth General Assembly.

Signed this 22nd day of May, 1981, being the sine die adjournment of the 1981 Regular Session of the Sixty-ninth General Assembly.

/s/ Delwyn Stromer

DELWYN STROMER
Speaker of the House

/s/ Pat H. Harper

PAT H. HARPER
Chief Clerk of the House of
Representatives, 1981 Regular
Session of the Sixty-ninth
General Assembly of the State
of Iowa.