

CHAPTER 1322
PROCEDURES IN SMALL CLAIMS ACTIONS
S.F. 24

AN ACT relating to procedures in small claims actions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 631.3, subsection 3, Code 1983, is amended to read as follows:

3. The clerk shall cause to be entered upon each copy of the original notice and in the docket ~~the day for appearance time within which the defendant is required to appear, which date time shall be determined in accordance with section 631.4. Appearance dates shall be set only for days on which the office of the clerk is scheduled to be open.~~

Sec. 2. Section 631.4, subsection 1, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

1. **ACTIONS FOR MONEY JUDGMENT.** In an action for money judgment the clerk shall cause service to be obtained as follows, and the defendant is required to appear within the period of time specified:

a. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 56.2, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall mail to the defendant by certified mail, restricted delivery, return receipt to the clerk requested, a copy of the original notice together with a conforming copy of an answer form. The defendant is required to appear within twenty days following the date service is made.

b. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 56.2, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall cause a copy of the original notice and a conforming copy of an answer form to be delivered to a peace officer or other person for personal service as provided in rule of civil procedure 52, 56.1 or 56.2. The defendant is required to appear within twenty days following the date service is made.

c. If the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 56.2, the plaintiff may elect service in any other manner that is approved by the court as provided in that rule, and the defendant is required to appear within sixty days after the date of service.

d. If the defendant is a nonresident of this state and is subject to the jurisdiction of the court under section 617.3, the plaintiff may elect that service be made as provided in that section. The clerk shall collect the prescribed fees and costs, and shall cause duplicate copies of the original notice to be filed with the secretary of state and shall cause a copy of the original notice and a conforming copy of an answer form to be mailed to the defendant in the manner prescribed in section 617.3. The defendant is required to appear within sixty days from the date of filing with the secretary of state.

Sec. 3. Section 631.5, subsection 2, Code 1983, is amended to read as follows:

2. HEARING SET. If all defendants either have entered a timely appearance or have defaulted, the clerk shall assign a contested claim to the small claims calendar for hearing at a place and time certain. The time of hearing shall be not less than five days nor more than twenty days after the latest timely appearance, unless otherwise ordered by the court. The clerk shall transmit the original notice and all other papers relating to the case to the judicial officer to whom the case is assigned, and copies of all papers so transmitted shall be retained in the clerk's office.

Sec. 4. Section 631.5, subsection 5, Code 1983, is amended by striking the subsection.

Sec. 5. Section 631.12, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A defendant may move to set aside a default judgment in the manner provided for doing so in district court by rule of civil procedure 236.

Sec. 6. Section 631.13, subsection 1, Code 1983, is amended to read as follows:

1. NOTICE. An appeal from a judgment in small claims may be taken by any party by giving oral notice to the court at the conclusion of the hearing, or by filing a written notice of appeal with the clerk within ten twenty days after judgment is rendered. In either case, the appealing party shall pay to the clerk within that ten twenty days the usual district court docket fee to perfect the appeal. No appeal shall be taken after ten twenty days.

Sec. 7. Section 631.13, subsection 4, paragraph a, Code 1983, is amended to read as follows:

a. ~~A district judge shall promptly hear the~~ The appeal shall be promptly heard upon the record thus filed without further evidence. If the original action was tried by a district judge, the appeal shall be decided by a different district judge. If the original action was tried by a district associate judge, the appeal shall be decided by a district judge. If the original action was tried by a judicial magistrate, the appeal shall be decided by a district judge or a district associate judge. The judge shall decide the appeal without regard to technicalities or defects which have not prejudiced the substantial rights of the parties, and may affirm, reverse, or modify the judgment, or render judgment as the judge or magistrate should have rendered.

If the record, in the opinion of the district deciding judge, is inadequate for the purpose of rendering a judgment on appeal, the ~~district~~ judge may order that additional evidence be presented ~~before him~~ relative to one or more issues, and may enter any other order which ~~may be~~ is necessary to protect the rights of the parties. The ~~district~~ judge shall take minutes of any additional evidence, but the hearing shall not be reported by a certified court reporter.

Sec. 8. Rule of civil procedure 181.2, paragraph (b), Iowa court rules, is amended to read as follows:

(b) SMALL CLAIMS APPEALS. ~~On each motion day~~ At least twice each month, the clerk of court shall present to the ~~presiding judge~~ a district judge or district associate judge authorized by statute to hear the appeal the file and any transcript or exhibits in each small claims case in which appeal was taken more than ~~twenty~~ ten days previously. The judge ~~will~~ shall decide the appeal upon the record without oral argument unless, within ~~twenty~~ ten 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.

Approved May 3, 1984