

CHAPTER 273
RULES OF CIVIL PROCEDURE

IN THE MATTER OF CHANGES IN
 RULES OF CIVIL PROCEDURE

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REPORT OF THE
 SUPREME COURT

TO: BURNETTE E. KOEBERNICK, ACTING SECRETARY OF THE LEGISLATIVE
 COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (Supp. 1983), the Supreme Court of Iowa has prescribed and hereby reports to the Legislative Council the attached Exhibit A, constituting changes in Rules of Civil Procedure, which have been issued on this date. Pursuant to Iowa Code section 602.4202(3) (Supp. 1983), these rules are to take effect on July 1, 1985.

Respectfully submitted,
 THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
 February 21, 1985

ACKNOWLEDGMENT

I, the undersigned, Acting Secretary of the Legislative Council of the State of Iowa, hereby acknowledge delivery to me on the twenty-first day of February, 1985, of the Report of the Supreme Court pertaining to Rules of Civil Procedure.

/s/ Burnette E. Koebornick

Acting Secretary of the Legislative Council

EXHIBIT "A"
RULES OF CIVIL PROCEDURE

196. Instructions. The court shall instruct the jury as to the law applicable to all material issues in the case and such instructions shall be in writing, in consecutively numbered paragraphs, and shall be read to the jury without comment or explanation; provided, however, that in actions triable to a jury where the amount in controversy as shown by the pleadings is less than two thousand dollars, and in any action where the parties so agree, the instructions may be oral. At the close of the evidence, or such prior time as the court may reasonably fix, any party may file written requests that the jury be instructed as set forth in such requests. Before argument to the jury begins, the court shall furnish counsel with a preliminary draft of instructions which it expects to give on all controversial issues, which shall not be part of the record. Before jury arguments, the court shall give to each counsel a copy of its instructions in their final form, noting this fact of record and granting reasonable time for counsel to make objections, which shall be made and ruled on before arguments to the jury. Within such time, all objections to giving or failing to give any instruction must be made in writing or dictated into the record, out of the jury's presence, specifying the matter objected to and on what grounds. No other grounds or objections shall be asserted thereafter, or considered on appeal. But if the court thereafter revises or adds to the instructions, similar specific objection to the revision or addition may be made in the motion for new trial, and if not so made shall be deemed waived. All instructions and objections, except as above provided, shall be part of the record. Nothing in these rules shall prohibit the court from reading to the jury one or more of the final instructions at any stage of the trial, provided that counsel for all parties has been given an opportunity to review the instructions being read and to make objections as provided in this rule. Any instructions read prior to conclusion of the evidence shall also be included in the instructions read to the jury following conclusion of the evidence.

203. Rendering verdict and answering interrogatories.

(a) Number. Before a general verdict, special verdicts, or answers to interrogatories are returned, the parties may stipulate that the finding may be rendered by a stated majority of the jurors. In the absence of such stipulation, a general verdict, special verdicts, or answers to interrogatories must be rendered unanimously. However, a general verdict, special verdict, or answers to interrogatories may be rendered by all jurors excepting one of the jurors if the jurors have deliberated for a period of not less than six hours after the issues to be decided have been submitted to them.

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

(c) Sealed. When, by consent of the parties and the court, the jury has been permitted to seal its finding and separates before it is rendered, such sealing is equivalent to a rendition and a recording thereof in open court, and such jury shall not be polled or permitted to disagree with respect thereto.

205. Special verdicts. The court may require that the verdict consist wholly of special written findings on each issue of fact. It shall then submit in writing questions susceptible of categorical or brief answers, or forms of several special findings that the jury might properly make under the issues and evidence, or submit the issues and require the findings in any other appropriate manner. It shall so instruct the jury as to enable it to find upon each issue submitted. If the submission omits any issue of fact, any party not demanding submission of such issue before the jury retires waives jury trial thereof, and the court may find upon it; failing which, it shall be deemed found in accord with the judgment on the special verdict. The court shall direct such judgment on the special verdict and answers as is appropriate thereto. Special interrogatories under Iowa Code chapter 668 shall be treated as special verdicts for purposes of these rules.

239. On motion in other cases.

(a) Judgments may be obtained on motion by sureties against principals or cosureties for money due because paid by them as such; by clients against attorneys, by plaintiffs in execution against sheriffs, constables or other officers for money or property collected by them, ~~and for damages~~; and in all other cases specially authorized by statute.

(b) A judgment for contribution based on comparative fault may be obtained on motion (1) only where the basis for such judgment has been established by findings of fact previously made by the court or jury in the action in which the motion is filed, and (2) only by or against the persons who were parties to that action at the time said findings were made.

(c) A motion for contribution permitted by this rule may be filed after final judgment has been entered in the action and the pendency of an appeal shall not deprive the court of jurisdiction to consider same.

(d) A judgment for contribution on motion, where permitted under this rule, may be in the form of a declaratory judgment conditioned upon the future satisfaction by a party of one or more of the judgments entered in the action.