CHAPTER 1286

ADMINISTRATIVE RULE RELATING TO CHILD ABUSE INFORMATION NULLIFIED
S.J.R. 2006

A JOINT RESOLUTION to nullify an administrative rule of the department of human services relating to the correction or expungement of information in the possession of the department concerning a case of alleged child abuse and providing an effective date.

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

Section 1. Iowa administrative code 441-175.15, is nullified.

Sec. 2. This Joint Resolution takes effect upon enactment.

Effective April 8, 1988

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE	REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council concerning the amending of Iowa Rule of Civil Procedure 34 as shown in the attached Exhibit "A" which is issued on this date.

Pursuant to Iowa Code section 602.4202(2) (1987), these changes are to take effect August 3, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

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

Des Moines, Iowa
May 27, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the second day of June, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

Rule 34. Third party practice.

(a) When defendant may bring in third party. At any time after commencement of the action a defending party, as a third-party plaintiff, may file a cross-petition and cause an original notice to be served upon a person not a party to the action who is or may be liable ~~to him~~ for all or part of the plaintiff's claim ~~against him~~. The third-party plaintiff need not obtain leave to make the service if ~~he files~~ the cross-petition is filed not later than ten days after ~~he files his~~ the filing of the original answer. Otherwise ~~he must obtain~~ leave may be obtained ~~on~~ by motion upon notice to all parties to the action.

PARAGRAPH DIVIDED. The person served with the original notice, ~~hereinafter called~~ the third-party defendant, shall ~~make~~ assert ~~his~~ defenses to the third-party plaintiff's claim as provided in R.C.P. 85 and ~~his~~ counterclaims against the third-party plaintiff as provided in R.C.P. 29 and cross-claims against other third-party defendants as provided in R.C.P. 33.

PARAGRAPH DIVIDED. The third-party defendant may assert against the plaintiff any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the plaintiff ~~thereupon~~ shall assert ~~his~~ defenses as provided in R.C.P. 85 and ~~his~~ counterclaims under R.C.P. 29.

The plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third-party defendant thereupon shall assert defenses as provided in R.C.P. 85, counterclaims as provided in R.C.P. 29, and cross-claims as provided in R.C.P. 33. Any party may move to strike the third-party claim or for its severance or for separate trial. A third-party defendant may proceed under this rule against any person not a party to the action who is or may be liable ~~to him~~ for all or part of the claim made in the action against the third-party defendant.

(b) When plaintiff may bring in third party. When a counterclaim is asserted against a plaintiff, ~~he~~ that plaintiff may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE

REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council concerning the striking of existing Iowa Rule of Civil Procedure 103 and substituting the new language as shown in the attached Exhibit "A" which is issued on this date.

Pursuant to Iowa Code section 602.4202(2) (1987), these changes are to take effect August 3, 1987. The previous order of this court dated May 4, 1987,* making these changes effective July 1, 1987, is hereby rescinded.

Respectfully submitted,

THE SUPREME COURT OF IOWA

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

Des Moines, Iowa
May 15, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the eighteenth day of May, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

*Not published

EXHIBIT "A"

103. ~~All defenses in answer. Every defense in bar or abatement, or to the jurisdiction after a general appearance, shall be made in the answer or reply, save as allowed by R.C.P. 104. No such defense shall overrule any other. But a party who presents and tries a defense in abatement alone, shall not thereafter be allowed to plead in bar.~~ Preliminary hearings. On application of any party, the motion for judgment on the pleadings under R.C.P. 222, and the defenses of (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, and (7) failure to join a party under R.C.P. 25, whether made in a pleading or by motion, shall be heard and determined before trial, unless the court orders that the hearing and determination thereof be deferred until the trial.

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE	REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council concerning the following changes to the Iowa Rules of Civil Procedure which are issued on this date.

Attached Exhibit "A" shows the new language of rule 121(d) which is hereby adopted.

Attached Exhibit "B" shows the new language of rule 122(d) which is hereby adopted. Existing rule 122(d) is hereby stricken.

Attached Exhibit "C" shows the new language of rule 124.2 which is hereby adopted.

Attached Exhibit "D" shows the new language of rule 125 which is hereby adopted. Existing rule 125 is hereby stricken.

Attached Exhibit "E" shows the new language of rule 136* which is hereby adopted. Existing rule 136 is hereby stricken.

Attached Exhibit "F" shows the new language of rule 138, and a new final pretrial order form to be included in the appendix of forms following the Iowa Rules of Civil Procedure, which are hereby adopted. Existing rule 138 is hereby stricken.

Attached Exhibit "G" shows the amendments to rules 181(c) and 181(d), which are hereby adopted.

Attached Exhibit "H" shows the new language of rule 181.2(a), which is hereby adopted. Existing rule 181.2(a) is hereby stricken.

Pursuant to Iowa Code section 602.4202(2) (1987), these changes are to take effect August 3, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
May 28, 1987

*Stricken and rewritten; see page 746 herein

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the second day of June, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

121. Discovery methods.

(a) Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission.

(b) The rules providing for discovery and inspection shall be liberally construed and shall be enforced to provide the parties with access to all relevant facts. Discovery shall be conducted in good faith, and responses to discovery requests, however made, shall fairly address and meet the substance of the request.

(c) Unless the court orders otherwise under R.C.P. 123, the frequency of use of these methods is not limited. The court shall order otherwise if it determines that: (1) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (2) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (3) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation.

(d) A rule requiring a matter to be under oath may be satisfied by an unsworn written statement in substantially the following form: "I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

....
Date Signature"

EXHIBIT "B"

122. Scope of discovery.

* * * * *

[NEW]

(d) Supplementation of responses. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement the response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement the response with respect to any question directly addressed to:

(A) The identity and location of persons having knowledge of discoverable matters; and

(B) The identity of each person expected to be called as a witness at trial;

(2) A party is under a duty seasonably to amend a prior response if the party obtains information upon the basis of which:

(A) The party knows that the response was incorrect when made; or

(B) The party knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment;

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

* * * * *

EXHIBIT "C"

[NEW]

124.2 Discovery conference. At any time after commencement of an action the court may direct the attorneys for the parties to appear before it for a conference on the subject of discovery. The court shall do so upon motion by the attorney for any party if the motion includes:

(a) A statement of the issues as they then appear;

(b) A proposed plan and schedule of discovery;

(c) Any limitations proposed to be placed on discovery;

(d) Any other proposed orders with respect to discovery;

(e) A statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion. Each party and that party's attorney are under a duty to participate in good faith in the framing of a discovery plan if a plan is proposed by the attorney for any party. Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served not later than ten days after service of the motion.

Following the discovery conference, the court shall enter an order tentatively identifying the issues for discovery, setting limitations on discovery, if any, and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the action. An order may be altered or amended whenever justice so requires.

Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the court may combine the discovery conference with a pretrial conference authorized by R.C.P. 136.

EXHIBIT "D"

[NEW]

125. Discovery of experts.

(a) Expert who is expected to be called as a witness. In addition to discovery provided pursuant to R.C.P. 133, discovery of facts known, mental impressions, and opinions held by an expert whom the other party expects to call as a witness at trial, otherwise discoverable under the provisions of R.C.P. 122(a) and acquired or developed in anticipation of litigation or for trial may be obtained as follows:

(1) A party may through interrogatories require any other party to state the name and address of each person whom the other party expects to call as an expert witness at trial and to state, with reasonable particularity:

(A) The subject matter on which the expert is expected to testify;

(B) The designated person's qualifications to testify as an expert on such subject; and

(C) The mental impressions and opinions held by the expert and the facts known to the expert (regardless of when the factual information was acquired) which relate to, or form the basis of, the mental impressions and opinions held by the expert.

Nothing in this rule shall be construed to preclude a witness from testifying as to (1) knowledge of the facts obtained by the witness prior to being retained as an expert or (2) mental impressions or opinions formed by the witness which are based on such knowledge.

In the case of an expert retained in anticipation of litigation or for trial, answers to interrogatories asking for the qualifications of the person expected to testify as an expert, the mental impressions and opinions held by the expert, and the facts known to the expert shall be prepared and separately signed by the designated expert witness. If the party serving such interrogatories believes that they were required to be answered by the expert and they were not so answered, the party may object on that basis and move for an order compelling discovery. An objection based on the failure of such interrogatories to be answered by the designated expert shall be asserted within thirty days of service of such answers; otherwise the objection is waived.

(2) Discovery by other means is available without leave of court in lieu of or in addition to interrogatories:

(A) A party may take the deposition of any person identified by any other party as a person expected to be called as an expert witness at trial;

(B) A party may also obtain discovery of documents and tangible things including all tangible reports, physical models, compilations of data, and other material prepared by an expert or for an expert in anticipation of the expert's trial and deposition testimony. The disclosure of material prepared by an expert used for consultation is required even if it was prepared in anticipation of litigation or for trial when it forms a basis, either in whole or in part, of the opinions of an expert who is expected to be called as a witness.

(C) If the discoverable factual observations, tests, supporting data, calculations, photographs, or opinions of an expert who will be called as a witness have not been recorded and reduced to tangible form, the court may order these matters be reduced to tangible form and produced within a reasonable time before the date of trial.

(b) Expert who is not expected to be called as a witness. The disclosure of the same information concerning an expert used for consultation and who is not expected to be called as a witness at trial is required if the expert's work product forms a basis, either in whole or in part, of the opinions of an expert who is expected to be called as a witness. Otherwise, a party may discover the identity of and facts known, or mental impressions and opinions held, by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, only as provided in R.C.P. 133, or upon a showing of exceptional circumstances under which

it is impractible for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(c) Duty to supplement discovery as to experts. If a party expects to call an expert witness when the identity or the subject of such expert witness' testimony has not been previously disclosed in response to an appropriate inquiry directly addressed to these matters, such response must be supplemented to include the information described in subdivisions (a)(1)(A)-(C) of this rule, as soon as practicable, but in no event less than thirty days prior to the beginning of trial except on leave of court. If the identity of an expert witness and the information described in subdivisions (a)(1)(A)-(C) are not disclosed in compliance with this rule, the court in its discretion may exclude or limit the testimony of such expert, or make such orders in regard to the nondisclosure as are just.

(d) Expert testimony at trial. To the extent that the facts known, or mental impressions and opinions held, by an expert have been developed in discovery proceedings under subdivisions (a)(1) or (2) of this rule, the expert's direct testimony at trial may not be inconsistent with or go beyond the fair scope of the expert's testimony in the discovery proceedings as set forth in the expert's deposition, answer to interrogatories, separate report, or supplement thereto. However, the expert shall not be prevented from testifying as to facts or mental impressions and opinions on matters with respect to which the expert has not been interrogated in the discovery proceedings.

(e) Court's discretion to compel disclosure of experts. The court has discretion to compel a party to make the determination and disclosure of whether an expert is expected to be called as a witness and shall do so to ensure that determination and the disclosures required by this rule within a reasonable and specific time before the date of trial. Upon motion, or at a discovery conference held pursuant to R.C.P. 124.2, or on its own initiative, the court may prescribe the sequence in which the parties make the determination and disclosures provided for under this rule.

(f) Expert fees during discovery. Unless manifest injustice would result, the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subdivisions (a)(2) and (b) of this rule. With respect to discovery obtained under subdivision (a)(2) of this rule the court may require, and with respect to discovery obtained under subdivision (b) of this rule, the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert. Any fee which the court requires to be paid shall not exceed the expert's customary hourly or daily fee; and, in connection with a party's deposition of another party's expert, shall include the time reasonably and necessarily spent in connection with such deposition, including time spent in travel to and from the deposition, but excluding time spent in preparation.

EXHIBIT "E"

[NEW]

*136. Pretrial conferences; scheduling; management.

(a) Pretrial conferences; objectives. In any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conferences before trial for such purposes as:

(1) Expediting the disposition of the action;

(2) Establishing early and continuing control so that the case will not be protracted because of lack of management;

(3) Discouraging wasteful pretrial activities;

(4) Improving the quality of the trial through more thorough preparation; and

(5) Facilitating the settlement of the case.

(b) Scheduling and planning. Upon application of any party or on the court's own motion, except in categories of cases exempted by supreme court rule as inappropriate, the court shall, after consulting with the attorneys for the parties and any unrepresented parties, by a scheduling conference which may be conducted by telephone, enter a scheduling order that limits the time:

(1) To join other parties and to amend the pleadings;

(2) To file and hear motions;

(3) To complete discovery; and

(4) To designate experts.

The scheduling order also may include:

(5) Special procedures, including assignment to a single judge, for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

(6) The date or dates for conferences before trial, a final pretrial conference and trial; and

(7) Any other matters appropriate in the circumstances of the case.

A schedule shall not be modified except by leave of the court upon a showing of good cause.

(c) Subjects to be discussed at pretrial conferences. The court at any conference under this rule may consider and take action with respect to:

(1) The formulation and simplification of the issues, including the elimination of frivolous claims or defenses;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence;

(4) The avoidance of unnecessary proof including limitation of the number of expert witnesses and of cumulative evidence;

(5) The identification of witnesses and documents, the need and schedule for filing and exchanging pretrial briefs, and the date or dates for further conferences and for trial;

(6) The advisability of referring matters to a master;

(7) The possibility of settlement and imposition of a settlement deadline or the use of extrajudicial procedures to resolve the dispute;

(8) The form and substance of the pretrial order;

(9) The disposition of pending motions;

(10) Settling any facts of which the court is to be asked to take judicial notice;

(11) Specifying all damage claims in detail as of the date of conference;

(12) All proposed exhibits and mortality tables and proof thereof;

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*Stricken and rewritten; see page 746 herein

(13) Consolidation, separation for trial, and determination of points of law;
(14) Questions relating to voir dire examination of jurors;
(15) Filing of advance briefs when required; and
(16) Such other matters as may aid in the disposition of the action.

At least one of the attorneys for each party participating in any conference before trial shall have authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably anticipate may be discussed.

(d) Final pretrial conference. A final pretrial conference shall be held as close to the time of trial as reasonable under the circumstances. The participants at any such conference shall formulate a plan for trial, including a program for facilitating the admission of evidence. The conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties.

(e) Sanctions. If a party or party's attorney fails to obey a scheduling or pretrial order, or if no appearance is made on behalf of a party at a scheduling or pretrial conference, or if a party or party's attorney is substantially unprepared to participate in the conference, or if a party or party's attorney fails to participate in good faith, the court, upon motion or the court's own initiative, may make such orders with regard thereto as are just, and among others any of the orders provided in R.C.P. 134(b)(2)(B)-(D). In lieu of or in addition to any other sanction, the court shall require the party or the attorney representing that party or both to pay the reasonable expenses incurred because of any noncompliance with this rule, including attorney's fees, unless the court finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.

EXHIBIT "F"

[NEW]

138. Pretrial orders. After any conference held pursuant to R.C.P. 136, an order shall be entered reciting the action taken. This order shall control the subsequent course of the action unless modified by a subsequent order. The order following a final pretrial conference shall be in accordance with the final pretrial order form found in the Appendix of Forms and shall be modified only to prevent manifest injustice.

6. FINAL PRETRIAL ORDER

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

Plantiff(s)

vs.

Defendant(s)

No. _____

FINAL PRETRIAL ORDER

FOLLOWING THE FINAL PRETRIAL CONFERENCE IT IS ORDERED:

1. The following facts are undisputed:
   [list facts not in dispute]

2A. The following exhibits are received without objection:

2B. The following exhibits are subject to objection to be made at trial:

3. The legal issues to be tried are:
   [list theories of recovery or defense]

4. The factual issues to be tried are:
   [list the principal factual disputes and specifications of negligence or fault asserted by each party if applicable]

5. Requested instructions, motions in limine, and trial briefs shall be filed by _____.

6. Trial will commence at _____ .m. on _____.

7. It is further ordered that:
   [list other matters which the court desires to include]

_____

Judge for the _____ Judicial District of Iowa

EXHIBIT "G"

181. Trial certificate, response.

* * * * *

(c) On each motion day, the clerk of court shall present to the court the file in each civil case in which a trial certificate and an objection to it have been on file for more than seven days or in which a trial certificate has been on file, without objection, for more than twenty days.

(d) After a trial certificate is served and filed, a pretrial conference of the case will be held under R.C.P. 136, if requested by a party or ordered by the court.

EXHIBIT "H"

[NEW]

181.2 Trial assignments.

(a) Civil cases. The court, in the exercise of its discretion, may assign a case for trial by order upon any one of the following:

(1) The conclusion of a scheduling or pretrial conference;

(2) The filing of a trial certificate and consultation with counsel for all parties;

(3) The agreement of all parties or their counsel; or

(4) The court's own motion after consultation with counsel for all parties. Trial of a dissolution of marriage or a small claim may be set without consulting counsel subject to rescheduling by the court administrator upon the request of counsel in the event of a scheduling conflict.

The court may delegate its power and duty to assign cases for trial to the court administrator or other suitable person.

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IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE } REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council the attached Exhibit "A," concerning the amendments to Iowa Rule of Civil Procedure 136, which are issued on this date. That portion of the report of this court dated May 28, 1987, amending Iowa Rule of Civil Procedure 136, effective August 3, 1987, is hereby stricken.

Pursuant to Iowa Code section 602.4202(2) (1987), this change is to take effect September 1, 1987. Existing rule 136 is to be stricken on that date.

Respectfully submitted,

THE SUPREME COURT OF IOWA

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

Des Moines, Iowa
June 16, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the nineteenth day of June, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

[NEW]

136. Pretrial conferences; scheduling; management.

(a) Pretrial conferences; objectives. In any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conferences before trial for such purposes as:

(1) Expediting the disposition of the action;

(2) Establishing early and continuing control so that the case will not be protracted because of lack of management;

(3) Discouraging wasteful pretrial activities;

(4) Improving the quality of the trial through more thorough preparation; and

(5) Facilitating the settlement of the case.

(b) Scheduling and planning. Upon application of any party or on the court's own motion, except in categories of cases exempted by supreme court rule as inappropriate, the court or its designee shall enter a scheduling order setting time limits for:

(1) Joining other parties;

(2) Designating experts;

(3) Completing discovery;

(4) Amending the pleadings; and

(5) Filing and hearing motions.

After consulting with the attorneys for the parties and any unrepresented parties, the court may also order:

(6) Special procedures, including assignment to a single judge, for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

(7) The date or dates for conferences before trial, a final pretrial conference and trial; and

(8) Any other matters appropriate in the circumstances of the case including extension of those deadlines which are then justified.

A schedule shall not be modified except by leave of the court upon a showing of good cause.

(c) Subjects to be discussed at pretrial conferences. The court at any conference under this rule may consider and take action with respect to:

(1) The formulation and simplification of the issues, including the elimination of frivolous claims or defenses;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence;

(4) The avoidance of unnecessary proof including limitation of the number of expert witnesses and of cumulative evidence;

(5) The identification of witnesses and documents, the need and schedule for filing and exchanging pretrial briefs, and the date or dates for further conferences and for trial;

(6) The advisability of referring matters to a master;

(7) The possibility of settlement and imposition of a settlement deadline or the use of extra judicial procedures to resolve the dispute;

(8) The form and substance of the pretrial order;

(9) The disposition of pending motions;

(10) Settling any facts of which the court is to be asked to take judicial notice;

(11) Specifying all damage claims in detail as of the date of conference;

(12) All proposed exhibits and mortality tables and proof thereof;

(13) Consolidation, separation for trial, and determination of points of law;

(14) Questions relating to voir dire examination of jurors;
(15) Filing of advance briefs when required; and
(16) Such other matters as may aid in the disposition of the action.

At least one of the attorneys for each party participating in any conference before trial shall have authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably anticipate may be discussed.

(d) Final pretrial conference. A final pretrial conference shall be held as close to the time of trial as reasonable under the circumstances. The participants at any such conference shall formulate a plan for trial, including a program for facilitating the admission of evidence. The conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties.

(e) Sanctions. If a party or party's attorney fails to obey a scheduling or pretrial order, or if no appearance is made on behalf of a part at a scheduling or pretrial conference, or if a party or party's attorney is substantially unprepared to participate in the conference, or if a party or party's attorney fails to participate in good faith, the court, upon motion or the court's own initiative, may make such orders with regard thereto as are just, and among others any of the orders provided in R.C.P. 134(b)(2)(B)-(D). In lieu of or in addition to any other sanction, the court shall require the party or the attorney representing that party or both to pay the reasonable expenses incurred because of any noncompliance with this rule, including attorney's fees, unless the court finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE } REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council an amendment to Iowa Rule of Civil Procedure 144(c), attached as Exhibit "A" and issued on this date.

Pursuant to Iowa Code section 602.4202(2) (1987), this change is to take effect November 2, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

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

Des Moines, Iowa
August 27, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the twenty-eighth day of August, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

144. Use of depositions. Any part of a deposition, so far as admissible under the rules of evidence, may be used upon the trial or at an interlocutory hearing or upon the hearing of a motion in the same action against any party who appeared when it was taken, or stipulated therefor, or had due notice thereof, either:

(a) To impeach or contradict deponent's testimony as a witness; or

(b) For any purpose if, when it was taken, deponent was a party adverse to the offeror, or was an officer, partner or managing agent of any adverse party which is not a natural person; or

(c) For any purpose, if the court finds that the offeror was unable to procure deponent's presence at the trial by subpoena; or that deponent is out of the state ~~or more than one hundred miles distant from the trial,~~ and such absence was not procured by the offeror; or that deponent is dead, or unable to testify because of age, illness, infirmity or imprisonment.

(d) On application and notice, the court may also permit a deposition to be used for any purpose, under exceptional circumstances making it desirable in the interests of justice; having due regard for the importance of witnesses testifying in open court.

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF SMALL CLAIMS FORMS FOR ORIGINAL NOTICE

REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council concerning the adoption of two new forms to be used in the Iowa District Court Small Claims Division. The attached Exhibit "A" is an original notice form for use in actions involving a foreign corporation or nonresident defendant. The attached Exhibit "B" is an original notice form for use in actions involving a nonresident motor vehicle owner or operator.

Pursuant to Iowa Code section 602.4202(2) (1987), these changes are to take effect December 1, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
September 29, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the second day of October, 1987, the Report of the Supreme Court pertaining to small claims forms for original notice.

/s/ Donovan Peeters

Secretary of the Legislative Council

EXHIBIT "A"

IN THE IOWA DISTRICT COURT
IN AND FOR _____ COUNTY
(Small Claims Division)

Plaintiff(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

vs.

Defendant(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

ORIGINAL NOTICE

(Foreign Corporation or Nonresident Defendant)

Small Claim No. _____

Date Filed _____

TO THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY NOTIFIED that the plaintiff(s) demand(s) from you the amount of $ _____ based on _____ (State briefly the basis for the demand).

UNLESS YOU APPEAR by completing and filing the attached appearance and answer form with the clerk of the court at _____ (exact address) in _____ (city), Iowa _____ (zip code), within sixty days after the filing of this original notice with the secretary of state of the State of Iowa, judgment shall be rendered against you upon plaintiff's (s') claim together with interest and court costs.

IF YOU DENY THE CLAIM AND APPEAR by filing the attached appearance and answer within sixty days after the filing of this original notice with the secretary of state of the State of Iowa, you will then receive notification from the clerk's office of the place and time assigned for hearing.

_____

_____

Plaintiff(s)

Judgment Entry: _____

EXHIBIT "B"

IN THE IOWA DISTRICT COURT
IN AND FOR _____ COUNTY
(Small Claims Division)

Plaintiff(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

vs.

Defendant(s)

_____
(Name)

_____
(Address)

_____
(Name)

_____
(Address)

ORIGINAL NOTICE

(Nonresident Motor Vehicle Owner or Operator)

Small Claim No. _____

Date Filed _____

TO THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY NOTIFIED that the plaintiff(s) demand(s) from you the amount of $ _____ based on _____ (State briefly the basis for the demand).

UNLESS YOU APPEAR by completing and filing the attached appearance and answer form with the clerk of the court at _____ (exact address) in _____ (city), Iowa _____ (zip code), within sixty days after the filing of this original notice with the director of transportation of the State of Iowa, judgment shall be rendered against you upon plaintiff's (s') claim together with interest and court costs.

IF YOU DENY THE CLAIM AND APPEAR by filing the attached appearance and answer within sixty days after the filing of this original notice with the director of transportation of the State of Iowa, you will then receive notification from the clerk's office of the place and time assigned for hearing.

_____

_____

Plaintiff(s)

Judgment Entry: _____

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF EVIDENCE

REPORT OF THE SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202 (1987), the Supreme Court of Iowa has prescribed and hereby reports to the Secretary of the Legislative Council an amendment to Iowa Rule of Evidence 410, attached as Exhibit "A" and issued on this date.

Pursuant to Iowa Code section 602.4202(2) (1987), this change is to take effect October 1, 1987.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson

W. W. REYNOLDSON, Chief Justice

Des Moines, Iowa
July 31, 1987

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the fourth day of August, 1987, the Report of the Supreme Court pertaining to the Iowa Rules of Evidence.

/s/ Donovan Peeters

Secretary of the Legislative Council

EXHIBIT "A"

Rule 410. Inadmissibility of pleas, plea discussions, and related statements. Except as otherwise provided in this rule or R. Cr. P. 9(5), evidence of the following is not, in any civil or criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

(1) a plea of guilty which was later withdrawn;

(2) a plea of nolo contendere in a federal court or criminal proceeding in another state;

(3) any statement made in the course of any proceedings under rule 11 of the Federal Rules of Criminal Procedure, R. Cr. P. 9, or comparable procedure in other states regarding either of the foregoing pleas; or

(4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought in fairness be considered contemporaneously with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.