

CHAPTER 329

USE OF DEPOSITION OF EXPERT OR HEALTH CARE PRACTITIONER

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, 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 attached as Exhibit "A".

Pursuant to Iowa Code section 602.4202(2), this change is to take effect June 1, 1989.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin

ARTHUR A. MCGIVERIN, Chief Justice

Des Moines, Iowa
March 217, 1989

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the twenty-third day of March, 1989, 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 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; or

(d) For any purpose, if it was taken of an expert witness specially retained for litigation; or the deponent was a health care practitioner offering opinions or facts concerning a party's physical or mental condition.

(e) 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.