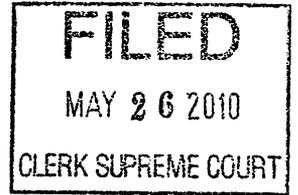


IN THE SUPREME COURT OF IOWA



ORDER

**IN THE MATTER OF AMENDMENT TO
IOWA RULE OF CIVIL PROCEDURE 1.1013**

By action of this court, Iowa Rule of Civil Procedure 1.1013 is amended as shown in the attached document. The amendment to this rule shall take effect July 24, 2010.

Dated this 26th day of May, 2010.

THE SUPREME COURT OF IOWA

By Marsha Ternus
Marsha Ternus, Chief Justice

CHAPTER 1
RULES OF CIVIL PROCEDURE

Rule 1.1013 Procedure for vacating or modifying judgment.

1.1013(1) *Petition.* A petition for relief under rule 1.1012 requires payment of the filing fee set forth in Iowa Code section 602.8105(1)(a), or if made in small claims, the filing fee set forth in section 631.6(1)(a), and must be filed and served in the original action within one year after the entry of the judgment or order involved. It shall state the grounds for relief, and, if it seeks a new trial, show that they were not and could not have been discovered in time to proceed under rule 1.977 or 1.1004. If the pleadings in the original action did not allege a meritorious action or defense the petition shall do so. It shall be supported by affidavit as provided in rule 1.413(3).

1.1013(2) *Notice.* The petitioner must serve the adverse party with an original notice and petition in the manner provided in rules 1.301 through 1.315, located in division III of the rules in this chapter.

1.1013(3) *Trial.* The court shall promptly assign the petition for trial not less than 20 days after notice is served. The petition shall stand denied without answer; otherwise the issues and pleadings, and form and manner of the trial shall be the same, as nearly as may be, as in the trial of an ordinary action to the court, and with the same right of appeal. No new claim shall be introduced.

1.1013(4) *Preliminary determination.* The court may try and determine the validity of the grounds to vacate or modify a judgment or order before trying the validity of the claim or defense.

1.1013(5) *Judgment.* If the original judgment or order is affirmed after a stay under rule 1.1006, additional judgment shall be entered against the petitioner for the costs of the trial, and also, in the court's discretion, for damages not exceeding 10 percent of the judgment affirmed.

IN THE SUPREME COURT OF IOWA

FILED
MAY 26 2010
CLERK SUPREME COURT

IN THE MATTER OF IOWA RULE
OF CIVIL PROCEDURE 1.1013

REPORT OF THE
SUPREME COURT

TO: THE HONORABLE KEITH A. KREIMAN, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 2009 REGULAR SESSION OF THE EIGHTY-THIRD GENERAL ASSEMBLY OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.4201 and 602.4202 (2009), the Supreme Court of Iowa has approved and reports on this date to the Chair of the Senate Judiciary Committee the amendment to Iowa Rule of Civil Procedure 1.1013. This amendment shall take effect July 24, 2010.

Dated this 26th day of May, 2010.

Respectfully submitted,

THE SUPREME COURT OF IOWA

By Marsha Ternus
Marsha Ternus, Chief Justice

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee, hereby acknowledge delivery to me on the ___ day of _____, the Report of the Supreme Court pertaining to Iowa Rule of Civil Procedure 1.1013.

Chair of the Senate Judiciary Committee

Please retain the copy and sign and return the original to: The Iowa Supreme Court Clerk's Office, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, IA 50319.