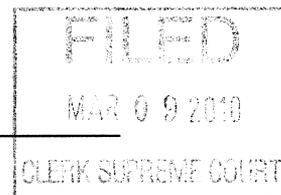


IN THE SUPREME COURT OF IOWA



IN THE MATTER OF IOWA RULES
OF CIVIL PROCEDURE 1.431
AND 1.1013

REPORT OF THE
SUPREME COURT

TO: THE HONORABLE KEITH A. KREIMAN, CHAIR OF THE SENATE
JUDICIARY COMMITTEE OF THE 2010 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 adoption of Iowa Rules of Civil
Procedure 1.431 and 1.1013. These amendments shall take effect May
10th, 2010.

Dated this 9th day of March, 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 Rules of Civil Procedure 1.431 and
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.**

CHAPTER 1

RULES OF CIVIL PROCEDURE

Rule 1.431 Motion practice; generally.

....

1.431(9) ~~The court upon its own motion or by the agreement of the parties shall arrange for the submission of motions under these rules by telephone conference call unless oral testimony may be offered.~~ The court may deem a motion under these rules submitted without hearing or may schedule a hearing, either in person or by telephone conference call, on the motion. The court shall, upon agreement of the parties, direct that the hearing be held by telephone conference call unless a party notifies the court that oral testimony will be offered. If the hearing is held by telephone conference call, the call shall be arranged and paid for by the party making the motion, unless the parties agree otherwise.

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), 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.