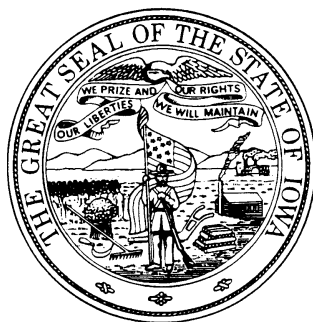


IOWA COURT RULES

FIFTH EDITION

April 2017 Supplement



Published under the authority of Iowa Code section 2B.5(2).

STEPHANIE A. HOFF
ADMINISTRATIVE CODE EDITOR

PREFACE

The Fifth Edition of the Iowa Court Rules was published in July 2009 pursuant to Iowa Code section 2B.5(2). Subsequent updates to the Iowa Court Rules, as ordered by the Supreme Court, are published in electronic format only and include chapters that have been amended or adopted.

The Iowa Court Rules and related court documents are available on the Internet at <https://www.legis.iowa.gov/IowaLaw/courtRulesListing.aspx>.

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Citation: The rules shall be cited as follows:

Chapter 1	Iowa R. Civ. P.
Chapter 2	Iowa R. Crim. P.
Chapter 5	Iowa R. Evid.
Chapter 6	Iowa R. App. P.
Chapter 16	Iowa R. Elec. P.
Chapter 32	Iowa R. of Prof'l Conduct
Chapter 51	Iowa Code of Judicial Conduct

All other rules shall be cited as "Iowa Ct. R."

Supplements: Supplements to the Fifth Edition of the Iowa Court Rules have been issued as follows:

August 2009	September 2010	June 2013	April 2015
September 2009	December 2010	August 2013	May 2015
October 2009	February 2011	September 2013	October 2015
November 2009	January 2012	November 2013	December 2015
December 2009	May 2012	December 2013	February 2016
January 2010	June 2012	January 2014	July 2016
February 2010	August 2012	March 2014	August 2016
March 2010	September 2012	April 2014	December 2016
May 2010	December 2012	June 2014	January 2017
June 2010	March 2013	December 2014	
August 2010	May 2013	January 2015	

April 2017 Supplement

Changes in this supplement

Rule 1.431.....	Amended	Rule 6.1401, Form 10	Adopted
Rule 6.102.....	Amended	Rule 8.36, heading.....	Added
Rule 6.1103	Amended	Rules 16.314 and 16.315.....	Amended
Rule 6.1401, Form 7.....	Amended	Rule 31.25, Form 2	Corrected

INSTRUCTIONS FOR UPDATING THE IOWA COURT RULES

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Replace Chapter 6
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Replace Chapter 16
Replace Chapter 31

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CHAPTER 1 RULES OF CIVIL PROCEDURE

DIVISION I OPERATION OF RULES

Rule 1.101 Applicability; statutes affected. The rules in this chapter shall govern the practice and procedure in all courts of the state, except where they expressly provide otherwise or statutes not affected hereby provide different procedure in particular courts or cases.
[Report 1943; November 9, 2001, effective February 15, 2002]

Rules 1.102 to 1.200 Reserved.

DIVISION II ACTIONS, JOINDER OF ACTIONS AND PARTIES

A. PARTIES GENERALLY; CAPACITY

Rule 1.201 Real party in interest. Every action must be prosecuted in the name of the real party in interest. But an executor, administrator, conservator, guardian, trustee of an express trust, or a party with whom or in whose name a contract is made for another's benefit, or a party specially authorized by statute may sue in that person's own name without joining the party for whose benefit the action is prosecuted. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.202 Public bond. When a bond or other instrument given to the state, county, school or other municipal corporation, or to any officer or person, is intended for the security of the public generally, or of particular individuals, action may be brought thereon, in the name of any person intended to be thus secured, who has sustained an injury in consequence of a breach thereof, except when otherwise provided.
[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.203 Partnerships. Actions may be brought by or against partnerships as such; or, where permitted by law, against any or all partners with or without joining the firm. Judgment against a partnership may be enforced against partnership property and that of any partner served or appearing in the suit. A new action will lie on the original cause against any partner not so served or appearing. The court may order absent partners brought in.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.204 Foreign corporations. Foreign corporations may sue and be sued in their corporate name, except as prohibited by statute.
[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.205 Assignees; exception. In cases not governed by the uniform commercial code the assignment of a thing in action shall be without prejudice to any defense, counterclaim or claim matured or not, if matured when pleaded, existing against the assignor in favor of the party pleading it.
[Report 1943; amendment 1967; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.206 Injury or death of a minor. A parent, or the parents, may sue for the expense and actual loss of services, companionship and society resulting from injury to or death of a minor child.
[Report 1943; amendment 1973; November 9, 2001, effective February 15, 2002]

Rule 1.207 Actions by and against state. The state may sue in the same way as an individual. No security shall be required of it.
[Report 1943; amendment 1974; November 9, 2001, effective February 15, 2002]

Rule 1.208 Married persons. A married person may sue or be sued without joining the person's spouse. If both are sued, each may defend; and if one fails to defend, the other may defend for both.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.209 Desertion of family. When a husband or wife deserts the family, the other may prosecute or defend any action which either might have prosecuted or defended, and shall have the same powers and rights therein as either might have had.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.210 Minors; incompetents. An action of a minor or any person adjudged incompetent shall be brought by the person's conservator if there is one or, if not, by the person's guardian if there is one; otherwise the minor may sue by a next friend, and the incompetent by a conservator or guardian appointed by the court for that purpose. If it is in the person's best interest, the court may dismiss such action or substitute another conservator, guardian or next friend.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.211 Defense by incompetent, prisoner, etc. No judgment without a defense shall be entered against a party then a minor, or confined in a penitentiary, reformatory or any state hospital for the mentally ill, or one adjudged incompetent, or whose physician certifies to the court that the party appears to be mentally incapable of conducting a defense. Such defense shall be by guardian ad litem; but the conservator (and if there is no conservator, the guardian) of a ward or the attorney appearing for a competent party may defend unless the proceeding was brought by or on behalf of such fiduciary or unless the court supersedes such fiduciary by a guardian ad litem appointed in the ward's interest.
[Report 1943; amended by 58GA, ch 152, §199; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.212 Guardian ad litem. If a party served with original notice appears to be subject to rule 1.211, the court may appoint a guardian ad litem for the party, or substitute another, in the ward's interest. Application for such appointment or substitution may be by the ward, if competent, or a minor over 14 years old; otherwise by the party's conservator or guardian or, if none, by any friend or any party to the action.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.213 to 1.220 Reserved.

B. SUBSTITUTION OF PARTIES

Rule 1.221 Substitution at death; limitation. Any substitution of legal representatives or successors in interest of a deceased party, permitted by statute, must be ordered within two years after the death of the original party. If the decedent's right survives entirely to those already parties, the action shall continue among the surviving parties without substitution.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.222 Transfer of interest. Transfer of an interest in a pending action shall not abate it, but may be the occasion for bringing in new parties.
[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.223 Incapacity pending action. If, during pendency of an action, a party is adjudged incompetent or confined in any state hospital for the mentally ill or if the party's physician certifies to the court that the party appears to be mentally incapable of acting in the party's own behalf, the conservator or guardian shall be joined or if there is none, the court shall appoint a guardian ad litem for the party.
[Report 1943; amended by 58GA, ch 152, §200; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.224 Nonabatement in case of guardianship. When a conservatorship or guardianship ceases for any reason, any action or proceeding then pending shall not abate. The conservator's or guardian's successor, the former ward, or the personal representative of the ward's estate shall be substituted or joined as a party. If no application is made for substitution, the court on its own motion may appoint a personal representative to represent the deceased party in the action.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.225 Majority of minor. A minor party who attains legal majority shall continue as a party in that person's own right.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.226 Officers; representatives. When any public official or other person in a representative capacity ceases to be such while a party to a suit, the court may order that party's successor brought in and substituted.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.227 Notice to substituted party. The order for substitution shall fix the time for the substituted party to appear, and the notice to be given. In case of substitution of a legal representative of a deceased party, notice shall be given in the same manner as an original notice.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.228 to 1.230 Reserved.

C. JOINDER; MISJOINDER AND NONJOINDER

Rule 1.231 Actions joined. A single plaintiff may join in the same petition as many causes of action, legal or equitable, independent or alternative, as there are against a single defendant.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.232 Multiple plaintiffs. Any number of persons who claim any relief, jointly, severally or alternatively, arising out of or respecting the same transaction, occurrence or series of transactions or occurrences, may join as plaintiffs in a single action, when it presents or involves any question of law or fact common to all of them. They may join any causes of action, legal or equitable, independent or alternative, held by any one or more of them which arise out of such transaction, occurrence or series, and which present or involve any common question of law or fact.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.233 Permissive joinder of defendants. Any number of defendants may be joined in one action which asserts against them, jointly, severally or in the alternative, any right to relief in respect of, or arising out of the same transaction, occurrence, or series of transactions or occurrences, when any question of law or fact common to all of them is presented or involved.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.234 Necessary parties; joinder.

1.234(1) Remedy for nonjoinder as plaintiff. Except as provided in this rule, all persons having a joint interest in any action shall be joined on the same side, but such persons failing to join as plaintiffs may be made defendants. This rule does not apply to class actions under rules 1.261 to 1.279, nor affect the options permitted by Iowa Code sections 613.1 and 613.2.

1.234(2) Definition of indispensable party. A party is indispensable if the party's interest is not severable, and the party's absence will prevent the court from rendering any judgment between the parties before it; or if notwithstanding the party's absence the party's interest would necessarily be inequitably affected by a judgment rendered between those before the court.

1.234(3) Indispensable party not before court. If an indispensable party is not before the court, it shall order the party brought in. When persons are not before the court who, although not indispensable, ought to be parties if complete relief is to be accorded between those already parties, and when necessary jurisdiction can be obtained by service of original notice in any manner provided by the rules in this chapter or by statute, the court shall order their names added as parties and original notice served upon them. If such jurisdiction cannot be had except by their consent or

voluntary appearance, the court may proceed with the hearing and determination of the cause, but the judgment rendered therein shall not affect their rights or liabilities.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.235 Parties partly interested. A party need not be interested in obtaining or defending against all the relief demanded. Judgment may be given respecting one or more parties according to their respective rights or liabilities.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.236 Remedy for misjoinder.

1.236(1) Parties. Misjoinder of parties is no ground for dismissal of the action, but parties may be dropped, or aligned according to their true interests in the action, by order of the court on its own motion or that of any party at any stage of the action, on such terms as are just; or any claim against a party improperly joined may be severed and proceeded with separately.

COMMENT: Rule 1.236(1) is very similar to Fed. R. Civ. P. 21. While neither rule provides expressly for realignment of parties, and no case law exists in Iowa on the authority of a court to realign parties, federal courts have interpreted Fed. R. Civ. P. 21 to allow realignment of parties according to their true interests. *See First National Bank of Shawnee Mission v. Roland Park State Bank*, 357 F. Supp. 708, 711 (D. Kan. 1973); Wright, Miller & Kain, *Federal Practice and Procedure*, Civil 2d, § 1683, at 448 (1986); 3A *Moore's Federal Practice*, ¶ 21.02, at 21-23 (1993).

1.236(2) Actions. The only remedy for improper joinder of actions shall be by motion. On such motion the court shall either order the causes docketed separately or strike those causes which should be stricken, always retaining at least one cause docketed in the original case. Before ruling on such motion, the party whose pleading is attacked may withdraw any of the causes claimed to be misjoined.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.237 Dependent remedies joined. An action heretofore cognizable only after another has been prosecuted to conclusion may be joined with the latter; and the court shall grant relief according to the substantive rights of the parties. But there shall be no joinder of an action against an indemnitor or insurer with one against the indemnified party, unless a statute so provides.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rules 1.238 to 1.240 Reserved.

D. COUNTERCLAIMS AND CROSS-CLAIMS

Rule 1.241 Compulsory counterclaims. A pleading must contain a counterclaim for every claim then matured, and not the subject of a pending action, held by the pleader against any opposing party and arising out of the transaction or occurrence that is the basis of such opposing party's claim, unless its adjudication would require the presence of indispensable parties of whom jurisdiction cannot be acquired. A final judgment on the merits shall bar such a counterclaim, although not pleaded.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.242 Permissive counterclaims. Unless prohibited by rule or statute, a party may counterclaim against an opposing party on any claim held by the party when the action was originally commenced and matured when pleaded.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.243 Joinder of counterclaims. A party pleading a counterclaim shall have the same right to join more than one claim as a plaintiff is granted under rules 1.231 and 1.232.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.244 Counterclaim not limited. A counterclaim may, but need not, diminish or defeat recovery sought by the opposing party. It may claim relief in excess of, or different from, that sought in the opponent's pleadings.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.245 Cross-claim against coparty. A pleading may state as a cross-claim any claim by one party against a coparty arising out of the transaction or occurrence that is the subject matter either of the original action or a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted

is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

[Report 1943; amendment 1973; amendment 1976; November 9, 2001, effective February 15, 2002]

Rule 1.246 Third-party practice.

1.246(1) *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 for all or part of the plaintiff's claim. The third-party plaintiff need not obtain leave to file the cross-petition if it is filed not later than ten days after the filing of the original answer. Otherwise leave may be obtained by motion upon notice to all parties to the action.

The third-party defendant shall assert defenses to the third-party plaintiff's claim as provided in rule 1.441 and counterclaims against the third-party plaintiff as provided in rule 1.241 and cross-claims against other third-party defendants as provided in rule 1.245.

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 shall assert defenses as provided in rule 1.441 and counterclaims under rule 1.241.

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 rule 1.441, counterclaims as provided in rule 1.241, and cross-claims as provided in rule 1.245. 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 for all or part of the claim made in the action against the third-party defendant.

1.246(2) *When plaintiff may bring in third party.* When a counterclaim is asserted against a plaintiff, that plaintiff may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.

[Report 1943; amendment 1973; amended by 65GA, ch 315, §1; May 27, 1987, effective August 3, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.247 to 1.250 Reserved.

E. INTERPLEADER

Rule 1.251 Right of interpleader. A person who is or may be exposed to multiple liability or vexatious litigation because of several claims against the person for the same thing, may bring an equitable action of interpleader against all such claimants. Their claims or titles need not have a common origin, nor be identical, and may be adverse to, or independent of each other. Such person may dispute liability, wholly or in part.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.252 By defendants. A defendant to an action exposed to similar liability or litigation may obtain interpleader by counterclaim or cross-petition. Any claimant not already before the court may be brought in to maintain or relinquish that claim to the subject of the action, and on default after due service, the court may decree such claim barred.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.253 Deposit; discharge. If a party initiating interpleader admits liability for, or nonownership of, any property or amount involved, the court may order it deposited in court or otherwise preserved or secured by bond. After such deposit the court, on hearing all parties, may absolve the depositor from obligation to such parties as to the property or amount deposited, before determining the rights of the adverse claimants.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.254 Substitution of claimant. If a defendant seeks an interpleader involving a third person, the latter may appear and be substituted for the original defendant, who may then be discharged upon complying with rule 1.253.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.255 Injunction. After petition and returns of the original notices are filed in an interpleader, the court may enjoin all parties before it from beginning or prosecuting any other suit as to the subject of the interpleader until its further order.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.256 Costs. Costs may be taxed against the unsuccessful claimant in favor of the successful claimant and the party initiating the interpleader.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.257 Sheriff or officer; creditor. When a sheriff or other officer is sued for taking personal property under a writ, or for the property so taken, such writ may be filed with the court, with an attached affidavit from the sheriff or other officer that the property involved was taken under the writ. The plaintiff shall then join the attaching or execution creditor as a defendant, or such creditor may join on application. Any judgment against the officer and creditor shall provide that the creditor's property be first exhausted to satisfy the judgment.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.258 to 1.260 Reserved.

F. CLASS ACTIONS

Rule 1.261 Commencement of a class action. One or more members of a class may sue or be sued as representative parties on behalf of all in a class action if both of the following occur:

1.261(1) The class is so numerous or so constituted that joinder of all members, whether or not otherwise required or permitted, is impracticable.

1.261(2) There is a question of law or fact common to the class.

[Report 1980; November 9, 2001, effective February 15, 2002]

Rule 1.262 Certification of class action.

1.262(1) Unless deferred by the court, as soon as practicable after the commencement of a class action the court shall hold a hearing and determine whether or not the action is to be maintained as a class action and by order certify or refuse to certify it as a class action.

1.262(2) The court may certify an action as a class action if it finds all of the following:

- a. The requirements of rule 1.261 have been satisfied.
- b. A class action should be permitted for the fair and efficient adjudication of the controversy.
- c. The representative parties fairly and adequately will protect the interests of the class.

1.262(3) If appropriate, the court may do any of the following:

- a. Certify an action as a class action with respect to a particular claim or issue.
- b. Certify an action as a class action to obtain one or more forms of relief, equitable, declaratory, or monetary.
- c. Divide a class into subclasses and treat each subclass as a class.

[Report 1980; November 9, 2001, effective February 15, 2002]

Rule 1.263 Criteria considered.

1.263(1) In determining whether the class action should be permitted for the fair and efficient adjudication of the controversy, as appropriately limited under rule 1.262(3), the court shall consider and give appropriate weight to the following and other relevant factors:

- a. Whether a joint or common interest exists among members of the class.
- b. Whether the prosecution of separate actions by or against individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for a party opposing the class.

c. Whether adjudications with respect to individual members of the class as a practical matter would be dispositive of the interests of other members not parties to the adjudication or substantially impair or impede their ability to protect their interests.

d. Whether a party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the class as a whole.

e. Whether common questions of law or fact predominate over any questions affecting only individual members.

f. Whether other means of adjudicating the claims and defenses are impracticable or inefficient.

g. Whether a class action offers the most appropriate means of adjudicating the claims and defenses.

h. Whether members who are not representative parties have a substantial interest in individually controlling the prosecution or defense of separate actions.

i. Whether the class action involves a claim that is or has been the subject of a class action, a government action, or other proceeding.

j. Whether it is desirable to bring the class action in another forum.

k. Whether management of the class action poses unusual difficulties.

l. Whether any conflict of laws issues involved pose unusual difficulties.

m. Whether the claims of individual class members are insufficient in the amounts or interests involved, in view of the complexities of the issues and the expenses of the litigation, to afford significant relief to the members of the class.

1.263(2) In determining under rule 1.262(2) that the representative parties fairly and adequately will protect the interests of the class, the court must find all of the following:

a. The attorney for the representative parties will adequately represent the interests of the class.

b. The representative parties do not have a conflict of interest in the maintenance of the class action.

c. The representative parties have or can acquire adequate financial resources, considering rule 1.276, to ensure that the interests of the class will not be harmed.

[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.264 Order on certification.

1.264(1) The order of certification shall describe the class and state the following:

a. The relief sought.

b. Whether the action is maintained with respect to particular claims or issues.

c. Whether subclasses have been created.

1.264(2) The order certifying or refusing to certify a class action shall state the reasons for the court's ruling and its findings on the facts listed in rule 1.263(1).

1.264(3) An order certifying or refusing to certify an action as a class action is appealable.

1.264(4) Refusal of certification does not terminate the action, but does preclude it from being maintained as a class action.

[Report 1980; November 9, 2001, effective February 15, 2002]

Rule 1.265 Amendment of certification order.

1.265(1) The court may amend the certification order at any time before entry of judgment on the merits. The amendment may do the following:

a. Establish subclasses.

b. Eliminate from the class any member who was included in the class as certified.

c. Provide for an adjudication limited to certain claims or issues.

d. Change the relief sought.

e. Make any other appropriate change in the order.

1.265(2) If notice of certification has been given pursuant to rule 1.266, the court may order notice of the amendment of the certification order to be given in terms and to any members of the class the court directs.

1.265(3) The reasons for the court's ruling shall be set forth in the amendment of the certification order.

1.265(4) An order amending the certification order is appealable. An order denying the motion of a member of a defendant class, not a representative party, to amend the certification order is appealable if the court certifies it for immediate appeal.

[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.266 Notice of action.

1.266(1) Following certification the court, by order after hearing, shall direct the giving of notice to the class.

1.266(2) The notice, based on the certification order and any amendment of the order, shall include all of the following:

a. A general description of the action, including the relief sought, and the names and addresses of the representative parties.

b. A statement of the right of a member of the class under rule 1.267 to be excluded from the action by filing an election to be excluded, in the manner specified, by a certain date.

c. A description of possible financial consequences on the class.

d. A general description of any counterclaim being asserted by or against the class, including the relief sought.

e. A statement that the judgment, whether favorable or not, will bind all members of the class who are not excluded from the action.

f. A statement that any member of the class may enter an appearance either personally or through counsel.

g. An address to which inquiries may be directed.

h. Other information the court deems appropriate.

1.266(3) The order shall prescribe the manner of notification to be used and specify the members of the class to be notified. In determining the manner and form of the notice to be given, the court shall consider the interests of the class, the relief requested, the cost of notifying the members of the class, and the possible prejudice to members who do not receive notice.

1.266(4) Each member of the class, not a representative party, whose potential monetary recovery or liability is estimated to exceed \$100 shall be given personal or mailed notice if that member's identity and whereabouts can be ascertained by the exercise of reasonable diligence.

1.266(5) For members of the class not given personal or mailed notice under rule 1.266(4), the court shall provide, as a minimum, a means of notice reasonably calculated to apprise the members of the class of the pendency of the action. Techniques calculated to ensure effective communication of information concerning commencement of the action shall be used. The techniques may include personal or mailed notice, notification by means of newspaper, television, radio, posting in public or other places, and distribution through trade, union, public interest, or other appropriate groups.

1.266(6) The plaintiff shall advance the expense of notice under this rule if there is no counterclaim asserted. If a counterclaim is asserted the expense of notice shall be allocated as the court orders in the interest of justice.

1.266(7) The court may order that steps be taken to minimize the expense of notice.

[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.267 Exclusion.

1.267(1) A member of a plaintiff class may elect to be excluded from the action unless any of the following occur:

a. The member is a representative party.

b. The certification order contains an affirmative finding under rule 1.263(1)(a), (b), or (c).

c. A counterclaim under rule 1.270 is pending against the member or that member's class or subclass.

1.267(2) Any member of a plaintiff class entitled to be excluded under rule 1.267(1) who files an election to be excluded, in the manner and in the time specified in the notice, is excluded from and not bound by the judgment in the class action.

1.267(3) The elections shall be made a part of the record in the action.

1.267(4) A member of a defendant class may not elect to be excluded.

[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.268 Conduct of action.

1.268(1) The court on motion of a party or its own motion may make or amend any appropriate order dealing with the conduct of the action including, but not limited to, any of the following:

a. Determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument.

b. Requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given as the court directs, of the following:

(1) Any step in the action.

(2) The proposed extent of the judgment.

(3) The opportunity of members to signify whether they consider the representation fair and adequate, to enter an appearance and present claims or defenses, or otherwise participate in the action.

c. Imposing conditions on the representative parties or on intervenors.

d. Inviting the attorney general to participate with respect to the question of adequacy of class representation.

e. Making any other order to ensure that the class action proceeds only with adequate class representation.

f. Making any order to ensure that the class action proceeds only with competent representation by the attorney for the class.

1.268(2) A class member who is not a representative party may appear and be represented by separate counsel.

[Report 1980; November 9, 2001, effective February 15, 2002]

Rule 1.269 Discovery by or against class members.

1.269(1) Discovery may be used only on order of the court against a member of the class who is not a representative party or who has not appeared. In deciding whether discovery should be allowed the court shall consider, among other relevant factors, the timing of the request, the subject matter to be covered, whether representatives of the class are seeking discovery on the subject to be covered, and whether the discovery will result in annoyance, oppression, or undue burden or expense for the member of the class.

1.269(2) Discovery by or against representative parties or those appearing is governed by the rules dealing with discovery by or against a party to a civil action.

[Report 1980; November 9, 2001, effective February 15, 2002]

Rule 1.270 Counterclaims.

1.270(1) A defendant in an action brought by a class may plead as a counterclaim any claim the court certifies as a class action against the plaintiff class. On leave of court, the defendant may plead as a counterclaim a claim against a member of the class or a claim the court certifies as a class action against a subclass.

1.270(2) Any counterclaim in an action brought by a plaintiff class must be asserted before notice is given under rule 1.266.

1.270(3) If a judgment for money is recovered against a party on behalf of a class, the court rendering judgment may stay distribution of any award or execution of any portion of a judgment allocated to a member of the class against whom the losing party has pending an action in or out of state for a judgment for money, and continue the stay so long as the losing party in the class action pursues the pending action with reasonable diligence.

1.270(4) A defendant class may plead as a counterclaim any claim on behalf of the class that the court certifies as a class action against the plaintiff. The court may certify as a class action a counterclaim against the plaintiff on behalf of a subclass or permit a counterclaim by a member of the class. The court shall order that notice of the counterclaim by the class, subclass, or member of the class be given to the members of the class as the court directs, in the interest of justice.

1.270(5) A member of a class or subclass asserting a counterclaim shall be treated as a member of a plaintiff class for the purpose of exclusion under rule 1.267.

1.270(6) The court's refusal to allow, or the defendant's failure to plead, a claim as a counterclaim in a class action does not bar the defendant from asserting the claim in a subsequent action.

[Report 1980; November 9, 2001, effective February 15, 2002]

Rule 1.271 Dismissal or compromise.

1.271(1) Unless certification has been refused under rule 1.262, a class action, without the approval of the court after hearing, may not be:

- a. Dismissed voluntarily.
- b. Dismissed involuntarily without an adjudication on the merits.
- c. Compromised.

1.271(2) If the court has certified the action under rule 1.262, notice of hearing on the proposed dismissal or compromise shall be given to all members of the class in a manner the court directs. If the court has not ruled on certification, notice of hearing on the proposed dismissal or compromise may be ordered by the court which shall specify the persons to be notified and the manner in which notice is to be given.

1.271(3) Notice given under rule 1.271(2) shall include a description of the procedure available for modification of the dismissal or compromise and a full disclosure of the reasons for the dismissal or compromise including, but not limited to, the following:

- a. Any payments made or to be made in connection with the dismissal or compromise.
- b. The anticipated effect of the dismissal or compromise on the class members.
- c. Any agreement made in connection with the dismissal or compromise.
- d. A description and evaluation of alternatives considered by the representative parties.
- e. An explanation of any other circumstances giving rise to the proposal.

1.271(4) On the hearing of the dismissal or compromise, the court may do any of the following:

- a. As to the representative parties or a class certified under rule 1.262, permit dismissal with or without prejudice or approve the compromise.
- b. As to a class not certified, permit dismissal without prejudice.
- c. Deny the dismissal.
- d. Disapprove the compromise.
- e. Take other appropriate action for the protection of the class and in the interest of justice.

1.271(5) The cost of notice given under rule 1.271(2) shall be paid by the party seeking dismissal, or as agreed in case of a compromise, unless the court after a hearing orders otherwise.

[Report 1980; November 9, 2001, effective February 15, 2002]

Rule 1.272 Effect of judgment on class. In a class action certified under rule 1.262 in which notice has been given under rule 1.266 or 1.271, a judgment as to the claim or particular claim or issue certified is binding, according to its terms, on any member of the class who has not filed an election of exclusion under rule 1.267. The judgment shall name or describe the members of the class who are bound by its terms.

[Report 1980; November 9, 2001, effective February 15, 2002]

Rule 1.273 Costs.

1.273(1) Only the representative parties and those members of the class who have appeared individually are liable for costs assessed against a plaintiff class.

1.273(2) The court shall apportion the liability for costs assessed against a defendant class.

1.273(3) Expenses of notice advanced under rule 1.266 are taxable as costs in favor of the prevailing party.

[Report 1980; November 9, 2001, effective February 15, 2002]

Rule 1.274 Relief afforded.

1.274(1) The court may award any form of relief consistent with the certification order to which the party in whose favor it is rendered is entitled including equitable, declaratory, monetary, or other relief to individual members of the class or the class in a lump sum or installments.

1.274(2) Damages fixed by a minimum measure of recovery provided by any statute may not be recovered in a class action.

1.274(3) If a class is awarded a judgment for money, the distribution shall be determined as follows:

- a. The parties shall list as expeditiously as possible all members of the class whose identity can be determined without expending a disproportionate share of the recovery.
- b. The reasonable expense of identification and distribution shall be paid, with the court's approval, from the funds to be distributed.
- c. The court may order steps taken to minimize the expense of identification.

d. The court shall supervise, and may grant or stay the whole or any portion of, the execution of the judgment and the collection and distribution of funds to the members of the class as their interests warrant.

e. The court shall determine what amount of the funds available for the payment of the judgment cannot be distributed to members of the class individually because they could not be identified or located or because they did not claim or prove the right to money apportioned to them. The court after a hearing shall distribute that amount, in whole or in part, to one or more states as unclaimed property or to the defendant.

f. In determining the amount, if any, to be distributed to a state or to the defendant, the court shall consider the following criteria:

- (1) Any unjust enrichment of the defendant.
- (2) The willfulness or lack of willfulness on the part of the defendant.
- (3) The impact on the defendant of the relief granted.
- (4) The pendency of other claims against the defendant.
- (5) Any criminal sanction imposed on the defendant.
- (6) The loss suffered by the plaintiff class.

g. The court, in order to remedy or alleviate any harm done, may impose conditions respecting the use of the money distributed to the defendant.

h. Any amount to be distributed to a state shall be distributed as unclaimed property to any state in which are located the last-known addresses of the members of the class to whom distribution could not be made. If the last-known addresses cannot be ascertained with reasonable diligence, the court may determine by other means what portion of the unidentified or unlocated members of the class were residents of a state. A state shall receive that portion of the distribution that its residents would have received had they been identified and located. Before entering an order distributing any part of the amount to a state, the court shall give written notice of its intention to make distribution to the attorney general of the state of the residence of any person given notice under rule 1.266 or 1.271 and shall afford the attorney general an opportunity to move for an order requiring payment to the state. [Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.275 Attorney's fees.

1.275(1) Attorney's fees for representing a class are subject to control of the court.

1.275(2) If under an applicable provision of law a defendant or defendant class is entitled to attorney's fees from a plaintiff class, only representative parties and those members of the class who have appeared individually are liable for those fees. If a plaintiff is entitled to attorney's fees from a defendant class, the court may apportion the fees among the members of the class.

1.275(3) If a prevailing class recovers a judgment for money or other award that can be divided for the purpose, the court may order reasonable attorney's fees and litigation expenses of the class to be paid from the recovery.

1.275(4) If the prevailing class is entitled to declaratory or equitable relief, the court may order the adverse party to pay to the class its reasonable attorney's fees and litigation expenses, if permitted by law in similar cases not involving a class, or the court finds that the judgment has vindicated an important public interest. However, if any monetary award is also recovered, the court may allow reasonable attorney's fees and litigation expenses only to the extent that a reasonable proportion of that award is insufficient to defray the fees and expenses.

1.275(5) In determining the amount of attorney's fees for a prevailing class the court shall consider all of the following factors:

- a. The time and effort expended by the attorney in the litigation, including the nature, extent, and quality of the services rendered.
- b. Results achieved and benefits conferred upon the class.
- c. The magnitude, complexity, and uniqueness of the litigation.
- d. The contingent nature of success.
- e. In cases awarding attorney's fees and litigation expenses under rule 1.275(4) because of the vindication of an important public interest, the economic impact on the party against whom the award is made.

f. Appropriate criteria in the Iowa Rules of Professional Conduct.

[Report 1980; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

Rule 1.276 Arrangements for attorney's fees and expenses.

1.276(1) Before a hearing under rule 1.262(1) or at any other time the court directs, the representative parties and the attorney for the representative parties shall file with the court, jointly or separately, all of the following:

a. A statement showing any amount paid or promised them by any person for the services rendered or to be rendered in connection with the action or for the costs and expenses of the litigation and the source of all of the amounts.

b. A copy of any written agreement, or a summary of any oral agreement, between the representative parties and their attorney concerning financial arrangements or fees.

c. A copy of any written agreement, or a summary of any oral agreement, by the representative parties or the attorney to share these amounts with any person other than a member, regular associate, or an attorney regularly of counsel with that law firm.

This statement shall be supplemented promptly if additional arrangements are made.

1.276(2) Upon a determination that the costs and litigation expenses of the action cannot reasonably and fairly be defrayed by the representative parties or by other available sources, the court by order may authorize and control the solicitation and expenditure of voluntary contributions for this purpose from members of the class, advances by the attorneys or others, or both, subject to reimbursement from any recovery obtained for the class. The court may order any available funds so contributed or advanced to be applied to the payment of any costs taxed in favor of a party opposing the class.

[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.277 Statute of limitations. The statute of limitations is tolled for all class members upon the commencement of an action asserting a class action. The statute of limitations resumes running against a member of a class:

1.277(1) Upon filing an election of exclusion by that member.

1.277(2) Upon entry of an order of certification, or of an amendment thereof, eliminating that member from the class.

1.277(3) Except as to representative parties, upon entry of an order under rule 1.262 refusing to certify an action as a class action.

1.277(4) Upon dismissal of the action without an adjudication on the merits.

[Report 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

COMMENT: Former Iowa R. Civ. P. 42.6 was stricken in order to eliminate its restriction on personal jurisdiction over nonresident class members, and to permit exercise of jurisdiction over nonresident class members to the extent permitted by the U.S. and state constitutions as interpreted by the courts. Former Iowa Rs. Civ. P. 42.19 and 42.20 were stricken because the Model Act has been adopted in only two states.

Rule 1.278 Virtual representation. Where persons composing a class which may be increased by others later born, do or may make a claim affecting specific property involved in an action to which all living members of the class are parties, any others later born shall also be deemed to have been parties to the action and bound by any decree rendered therein.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.279 Shareholder's actions. Shareholders in an incorporated or unincorporated association, who sue to enforce its rights because of its failure to do so, shall support their petition by affidavit, and allege their efforts to have the directors, trustees or other shareholders bring the action or enforce the right, or a sufficient reason for not making such effort.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.280 Reserved.

G. EXPEDITED CIVIL ACTIONS

Rule 1.281 Expedited civil actions.

1.281(1) *General provisions.*

a. Eligible actions. Rule 1.281 governs "expedited civil actions" in which the sole relief sought is a money judgment and in which all claims (other than compulsory counterclaims) for all damages by or against any one party total \$75,000 or less, including damages of any kind, penalties, prefilings interest,

and attorney fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs.

b. Excluded actions. Rule 1.281 does not apply to small claims or domestic relations cases.

c. Electing expedited procedures. Eligible plaintiffs can elect to proceed as an expedited civil action by certifying that the sole relief sought is a money judgment and that all claims (other than compulsory counterclaims) for all damages by or against any one party total \$75,000 or less, including damages of any kind, penalties, prefilng interest, and attorney fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs. The certification must be on a form approved by the supreme court and signed by all plaintiffs and their attorneys if represented. The certification is not admissible to prove a plaintiff's damages in the expedited civil action or in any other proceeding.

d. Iowa Rules of Civil Procedure otherwise apply. Except as otherwise specifically provided by this rule, the Iowa Rules of Civil Procedure are applicable to expedited civil actions. Iowa Court Rule 23.5—Form 3: Trial Scheduling and Discovery Plan for Expedited Civil Action must be used for expedited civil actions in lieu of Form 2 of rule 23.5.

e. Limitation on damages. Except as provided in rule 1.281(1)(f), a party proceeding under rule 1.281 may not recover a judgment in excess of \$75,000, nor may a judgment be entered against a party in excess of \$75,000, excluding prejudgment interest that accrues after the filing date, postjudgment interest, and costs. The jury, if any, must not be informed of the \$75,000 limitation. If the jury returns a verdict for damages in excess of \$75,000 for or against a party, the court may not enter judgment on that verdict in excess of \$75,000, exclusive of prejudgment interest that accrues after the filing date, postjudgment interest, and costs.

f. Stipulated expedited civil action. In a civil action not eligible under rule 1.281(1)(a) and not excluded by rule 1.281(1)(b), the parties may request to proceed as an expedited civil action upon the parties' filing of a Joint Motion to Proceed as an Expedited Civil Action. If the court grants the parties' motion, and unless the parties have otherwise agreed, the parties will not be bound by the \$75,000 limitation on judgments in rule 1.281(1)(e). The parties may enter into additional stipulations regarding damages and attorney fees. Unless otherwise ordered, the joint motion and any stipulations must not be disclosed to the jury.

g. Termination of expedited civil action. Upon timely application of any party, the court may terminate application of this rule and enter such orders as are appropriate under the circumstances if:

(1) The moving party makes a specific showing of substantially changed circumstances sufficient to render the application of this rule unfair; or

(2) A party has in good faith filed a compulsory counterclaim that seeks relief other than that allowed under rule 1.281(1)(a).

h. Permissive counterclaims. Permissive counterclaims are subject to the \$75,000 limitation on damages under rule 1.281(1)(e), unless the court severs the permissive counterclaim.

i. Side. As used throughout rule 1.281, the term "side" refers to all the litigants with generally common interests in the litigation.

COMMENT:

Rule 1.281(1)(a). The rule provides that absent stipulation, a single party in an expedited civil action cannot recover more than \$75,000 or be liable for more than \$75,000. A single party could obtain a damage verdict in excess of \$75,000, so long as the final judgment in the proceeding in favor of that party (after apportionment of fault and offsets for any settlements and exclusive of prejudgment interest, postjudgment interest, and costs) does not exceed \$75,000.

[Court Order August 28, 2014, effective January 1, 2015]

Rule 1.281(1)(c). Rule 1.1901 provides the Expedited Civil Action Certificate for eligible plaintiffs to complete.

[Court Order August 28, 2014, effective January 1, 2015]

Rule 1.281(1)(g). If the judgment in an expedited civil action is reversed and remanded on appeal, the case remains subject to rule 1.281 on remand, unless the trial court, upon motion, terminates the expedited civil action pursuant to this provision.

[Court Order August 28, 2014, effective January 1, 2015]

1.281(2) Discovery in expedited civil actions.

a. Discovery period. Except upon agreement of the parties or leave of court granted upon a showing of good cause, all discovery must be completed no later than 60 days before trial.

b. Initial disclosures. Expedited civil actions are subject to the initial disclosure requirements of rule 1.500(1).

c. Limited and simplified discovery procedures. Except upon agreement of the parties or leave of court granted upon a showing of good cause, discovery in expedited civil actions is subject to the following additional limitations:

(1) *Interrogatories to parties.* Subject to rule 1.509(4), each side may serve no more than ten interrogatories on any other side.

(2) *Production of documents.* In addition to document disclosures required under rule 1.500(1)(a), each side may serve no more than ten requests for production on any other side under rule 1.512.

(3) *Requests for admission.* Each side may serve no more than ten requests for admission on any other side under rule 1.510. This limit does not apply to requests for admission of the genuineness of documents that the party intends to offer into evidence at trial.

(4) *Depositions upon oral examination.*

1. *Parties.* One deposition of each party may be taken. With regard to corporations, partnerships, voluntary associations, or any other groups or entities named as a party, one representative deponent may be deposed.

2. *Other deponents.* Each side may take the deposition of up to two nonparties.

d. *Number of expert witnesses.* Each side is entitled to one retained expert, except upon agreement of the parties or leave of court granted upon a showing of good cause.

e. *Motion for leave of court.* A motion for leave of court to modify the limitations provided in rule 1.281(2) must be in writing and must set forth the proposed additional discovery and the reasons establishing good cause for its use.

1.281(3) Motions.

a. *Motions to dismiss.* Any party may file any motion permitted by rule 1.421. Unless the court orders a stay, the filing of a motion to dismiss will not eliminate or postpone otherwise applicable pleading or disclosure requirements.

b. *Motions for summary judgment.*

(1) *Limited grounds.* Motions for summary judgment under rule 1.981 may be made in an expedited civil action only upon the following grounds:

1. To collect on an open account or other liquidated debt.

2. To establish an obligation to indemnify.

3. To assert an immunity defense.

4. Failure to comply with Iowa Code section 668.11 or other deadline for disclosure.

5. Failure to provide notice or exhaust remedies as required by law.

6. To raise any other matter constituting an avoidance or affirmative defense.

(2) *Limited number.* Each party may file no more than one motion for summary judgment under rule 1.981. The motion may include more than one ground authorized under rule 1.281(3)(b)(1).

(3) *Deadline.* Motions for summary judgment under rule 1.981 must be filed no later than 90 days before trial.

COMMENT:

Rule 1.281(3)(b)(1)(4). If a case requires expert testimony, failure to timely designate an expert or to make a timely expert disclosure could be a permissible ground for summary judgment under this rule.

[Court Order August 28, 2014, effective January 1, 2015]

1.281(4) Procedure for expedited trials.

a. *Demand for jury trial.* Any party who desires a jury trial of any issue triable of right by a jury must file and serve upon the other parties a demand for jury trial pursuant to rule 1.902. Otherwise, expedited civil actions will be tried to the court.

b. *Trial setting.* The court shall set the expedited civil action for trial on a date certain, which will be a firm date except that the court may later reschedule the trial for another date during the same week. Unless the court otherwise orders for good cause shown, expedited civil actions must be tried within one year of filing.

c. *Pretrial submissions.* In addition to the pretrial submissions required by rules 1.500(3) and 23.5—Form 3(8), the parties must file one jointly proposed set of jury instructions and verdict forms. If a jury instruction or verdict form is controverted, each side must include its specific objections, supporting authority, and, if desired, a proposed alternative instruction or verdict form for the court's approval, denial, or modification. Both stipulated and alternative proposed jury instructions and verdict forms must be set forth in one document that is filed electronically in word processing format with the court.

d. *Expedited civil jury trial.* Unless otherwise ordered, the jury in an expedited civil jury trial will consist of six persons selected from a panel of twelve prospective jurors. Each side must strike three prospective jurors. If the expedited civil jury is unable to reach a unanimous verdict after deliberating for a period of not less than three hours, the verdict can be rendered by a five-juror majority. Where there are more than two sides, the court in its discretion may authorize and fix an additional number of jurors to be impaneled and strikes to be exercised.

e. Expedited nonjury trial. The court trying an expedited civil action without a jury may, in its discretion, dispense with findings of fact and conclusions of law and instead render judgment on a general verdict, special verdicts, or answers to interrogatories that are accompanied by relevant legal instructions that would be used if the action were being tried to a jury. In such cases, the parties must comply with the pretrial submission requirements of rule 1.281(4)(c). When the court follows this procedure, parties must make their record with respect to objections to or requests for instructions, special verdicts, and answers to interrogatories as in a jury trial. Posttrial motions will be permitted as in a jury trial except that the court may, in lieu of ordering a new trial, enter new verdicts or answers to interrogatories on the existing trial record.

f. Time limit for trial. Expedited civil actions should ordinarily be submitted to the jury or the court within two business days from the commencement of trial. Unless the court allows additional time for good cause shown, each side is allowed no more than six hours to complete jury selection, opening statements, presentation of evidence, examination and cross-examination of witnesses, and closing arguments. Time spent on objections, bench conferences, and challenges for cause to a juror is not included in the time limit.

g. Evidence.

(1) *Stipulations.* Parties should stipulate to factual and evidentiary matters to the greatest extent possible.

(2) *Documentary evidence admissible without custodian certification or testimony.* The court may overrule objections based on authenticity and hearsay to the admission of a document, notwithstanding the absence of testimony or certification from a custodian or other qualified witness, if:

1. The party offering the document gives notice to all other parties of the party's intention to offer the document into evidence at least 90 days in advance of trial. The notice must be given to all parties together with a copy of any document intended to be offered.

2. The document on its face appears to be what the proponent claims it is.

3. The document on its face appears not to be hearsay or appears to fall within a hearsay exception set forth in Iowa Rule of Evidence 5.803(3), 5.803(4), 5.803(6), 5.803(7), 5.803(8), 5.803(9), 5.803(10), 5.803(11), 5.803(12), 5.803(13), 5.803(14), 5.803(15), 5.803(16), 5.803(17), or 5.803(22).

4. The objecting party has not raised a substantial question as to the authenticity or trustworthiness of the document.

5. Nothing in rule 1.281(4)(g)(2) affects the operation of other Iowa Rules of Evidence such as rules 5.402, 5.403, and 5.404.

6. Nothing in rule 1.281(4)(g)(2) authorizes admission of a document that contains hearsay within hearsay, unless the court determines from the face of the document that each part of the combined statements conforms with an exception to the hearsay rule set forth in rule 1.281(4)(g)(2)(3).

7. Any authenticity or hearsay objections to a document as to which notice has been provided under rule 1.281(4)(g)(2)(1) must be made within 30 days after receipt of the notice.

(3) *Health Care Provider Statement in Lieu of Testimony.*

1. The report of any treating health care provider concerning the claimant may be used in lieu of deposition or in-court testimony of the health care provider, provided that the report offered into evidence is on the Health Care Provider Statement in Lieu of Testimony form adopted by the supreme court, and is signed by the health care provider making the report.

2. A Health Care Provider Statement in Lieu of Testimony must be accompanied by a certification from counsel for claimant listing all communications between counsel and the health care provider.

3. Unless otherwise stipulated or ordered by the court, a copy of the completed health care provider statement must be served on all parties at least 150 days in advance of trial. Any objections to the health care provider statement, including an objection that the statement is incomplete or does not otherwise comply with rule 1.281(4)(g)(3), must be made within 30 days after receipt of the statement. For good cause shown, the court may issue such orders regarding the health care provider statement as justice may require, including an order permitting a health care provider to supplement the statement.

4. Any party against whom a health care provider statement may be used has the right, at the party's own initial expense, to cross-examine by deposition the health care provider signing the report, and the deposition may be used at trial.

COMMENT:

Rule 1.281(4)(b). The parties may stipulate to a reasonable time beyond the one-year time limit in order to accommodate scheduling conflicts. The court, however, may set the expedited civil action for trial within the one-year period absent party

consent.

[Court Order August 28, 2014, effective January 1, 2015]

Rule 1.281(4)(e). The rule is intended to conserve judicial time and resources by giving the court discretion to dispense with findings of fact and conclusions of law and instead render a verdict as if the court were sitting as a “jury of one.” The use of jury instructions and a verdict form in lieu of findings of fact and conclusions of law permits appellate review of the court’s ruling. The cross-reference to rule 1.281(4)(c) clarifies that the parties must submit jointly one proposed set of jury instructions and a verdict form to the court trying the case without a jury. And, as also required by rule 1.281(4)(c), the parties must timely note objections to the final form of jury instructions and verdict form used by the court. Rule 1.904(2), governing motions to enlarge or amend findings and conclusions, does not apply in expedited nonjury trials in which the court dispenses with findings and conclusions.

[Court Order August 28, 2014, effective January 1, 2015]

Rule 1.281(4)(g)(2). The rule streamlines the presentation of records at trial, such as medical and business records, by allowing admission without a sponsoring witness to establish authenticity and the elements of a hearsay exception. This rule authorizes the court to review and admit the record on its face subject to other objections, such as relevance, upon a determination that the record appears to be genuine and appears not to be hearsay or to fall within one of several enumerated hearsay exceptions, such as statements for purpose of medical diagnosis or treatment, records of regularly conducted activity, or public records and reports (rules 5.803(4), 5.803(6), and 5.803(8)). If the record appears genuine and appears to qualify for one of the enumerated hearsay exceptions, the burden shifts to the other side to raise a substantial question as to its authenticity or trustworthiness. Rule 1.281(4)(g)(2) may only be used if the proponent of the record has given notice to other parties sufficiently in advance of trial of its intent to rely on this rule, while serving a copy of the record. See rule 1.281(4)(g)(2)(1).

[Court Order August 28, 2014, effective January 1, 2015]

Rule 1.281(4)(g)(3)(1). The rule permits a party to admit the out-of-court declaration of a health care provider in lieu of the health care provider’s in-court testimony. It prohibits hearsay objections based solely on the fact that the health care provider has not testified at trial or in a deposition subject to cross-examination.

[Court Order August 28, 2014, effective January 1, 2015]

Rule 1.281(4)(g)(3)(3). Any party may object to all or part of the Health Care Provider Statement in Lieu of Testimony, including the proponent of the statement. The rule provides that the court must rule on any objection to the health care provider statement sufficiently in advance of trial so as to give the proponent an opportunity to rectify any deficiencies in the statement. In ruling on such objections, the court has discretion to determine matters such as whether the health care provider has provided actual medical treatment for the patient, whether the health care provider has substantially answered the questions on the statement, or whether to redact any portion of the statement.

[Court Order August 28, 2014, effective January 1, 2015]

1.281(5) Settlement conference; alternative dispute resolution. Unless the parties have agreed to engage in alternative dispute resolution or are required to do so by contract or statute, the court may not, by order or local rule, require the parties to engage in a settlement conference or in any other form of alternative dispute resolution.

1.281(6) Claim preclusion; issue preclusion. Judgments or orders in an expedited civil action may not be relied upon to establish claim preclusion or issue preclusion unless the party seeking to rely on a judgment or order for preclusive effect was either a party or in privity with a party in the expedited civil action.

[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015]

Rules 1.282 to 1.300 Reserved.

DIVISION III COMMENCEMENT OF ACTIONS

Rule 1.301 Commencement of actions; tolling; cover sheet.

1.301(1) For all purposes, a civil action is commenced by filing a petition with the court. The date of filing shall determine whether an action has been commenced within the time allowed by statutes for limitation of actions, even though the limitation may inhere in the statute creating the remedy.

1.301(2) A cover sheet available from the clerk of court or from the judicial branch web site (www.iowacourts.gov) must be completed and accompany every civil petition except in small claims, probate, and mental health commitment actions. This requirement is solely for administrative purposes, and matters appearing on the civil cover sheet have no legal effect in the action. The clerk may assist pro se litigants in completing the cover sheet. The cover sheet may be modified from time to time as deemed necessary by the supreme court.

[Report 1943; amendment 1975; October 31, 1997, effective January 24, 1998; December 21, 1999, effective February 1, 2000; October 18, 2000, effective January 2, 2001; November 9, 2001, effective February 15, 2002]

Rule 1.302 Original notice; form, issuance and service. A notice to the defendant, respondent, or other party against whom an action has been filed shall be served in the form and manner provided by this rule. This notice shall be called the original notice.

1.302(1) The original notice shall contain the following information:

- a. The name of the court and the names of the parties.
- b. The name, address, telephone number, and if available, the facsimile transmission number of the plaintiff's or petitioner's attorney, if any, otherwise the plaintiff's or petitioner's address.
- c. The date of the filing of the petition.
- d. The time within which these rules or statutes require the defendant, respondent, or other party to serve, and within a reasonable time thereafter file, a motion or answer.

The original notice shall also state that if the defendant, respondent or other party fails to move or answer, judgment by default may be rendered for the relief demanded in the petition. The original notice shall also include the compliance notice required by the Americans with Disabilities Act (ADA). A copy of the petition shall be attached to the original notice except when service is by publication. If service is by publication, the original notice alone shall be published and shall also contain a general statement of the claim or claims and, subject to the limitation in rule 1.403(1), the relief demanded.

1.302(2) The original notice shall be signed by the clerk and be under the seal of the court.

1.302(3) An original notice shall be served with a copy of the petition. The plaintiff is responsible for service of an original notice and petition within the time allowed under rule 1.302(5) and shall furnish the person effecting service with the necessary copies of the original notice and petition. This rule does not apply to small claims actions.

1.302(4) Original notices may be served by any person who is neither a party nor the attorney for a party to the action. A party or party's agent or attorney may take an acknowledgment of service and deliver a copy of the original notice in connection therewith and may mail a copy of the original notice when mailing is required or permitted under any rule or statute.

1.302(5) If service of the original notice is not made upon the defendant, respondent, or other party to be served within 90 days after filing the petition, the court, upon motion or its own initiative after notice to the party filing the petition, shall dismiss the action without prejudice as to that defendant, respondent, or other party to be served or direct an alternate time or manner of service. If the party filing the papers shows good cause for the failure of service, the court shall extend the time for service for an appropriate period.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; November 22, 2002, effective February 1, 2003]

COMMENT: Rule 1.302 is a combination of former Iowa Rs. Civ. P. 49, 50 and 52 reorganized to present the information in a more logical sequence. This rule was changed to reflect the present practice. Original notices should now include the telephone number and facsimile transmission number of the party's attorney requesting the issuance of an original notice. It also requires the original notice to have the proper ADA notice. The language is changed stating a default "may be rendered" rather than "will be rendered." This change reflects the actual practice and the 10-day notice before a default judgment can be entered. The rule also has a 90-day requirement for service. Ninety days was chosen in order that service would be perfected prior to the issuance of scheduling orders by most courts. The forms of the original notices contained in the appendix are changed accordingly.

Rule 1.303 Time for motion or answer to petition.

1.303(1) Unless otherwise provided, the defendant, respondent, or other party shall serve, and within a reasonable time thereafter file, a motion or answer within 20 days after the service of the original notice and petition upon such party.

1.303(2) Any statute of Iowa which specifically requires response by a particular party, or in a particular action, within a specified time, shall govern the time for serving, and within a reasonable time thereafter filing, a motion or answer in such cases.

1.303(3) A defendant, respondent, or other party served in a manner prescribed by an order of court shall serve, and within a reasonable time thereafter file, a motion or answer on or before the date fixed.

1.303(4) A defendant, respondent, or other party served by publication or by publication and mailing shall serve, and within a reasonable time thereafter file, a motion or answer on or before the date fixed in the notice as published, which date shall not be less than 20 days after the date of last publication.

1.303(5) A defendant, respondent, or other party served by mail under rule 1.306 shall serve, and within a reasonable time thereafter file, a motion or answer on or before the date fixed in the notice as mailed, which date shall be not less than 60 days following the date of mailing.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.304 Response of garnishee. The officer serving a writ of attachment or execution shall garnish such persons as the plaintiff may direct who are supposed debtors, or who possess property of the principal defendant. Garnishment shall be effected by a notice served in the manner and as an original notice in civil actions. The notice shall forbid the garnishee from paying any debt owing such defendant, due or to become due, and require the garnishee to retain possession of all property of the defendant in the garnishee's hands or under the garnishee's control, to the end that the same may be dealt with according to law. Unless answers are required to be taken as provided by statute, the notice shall cite the garnishee to appear before the court at a time specified not less than ten days after service and answer such interrogatories as may be propounded, or the garnishee will be liable to pay any judgment which the plaintiff may obtain against the defendant.

[Report 1943; amendment 1945; Report 1978, effective July 1, 1979; April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.305 Personal service. Original notices are "served" by delivering a copy to the proper person. Personal service may be made as follows:

1.305(1) Upon any individual who has attained majority and who has not been adjudged incompetent, either by taking the individual's signed, dated acknowledgment of service endorsed on the notice, or by serving the individual personally; or by serving, at the individual's dwelling house or usual place of abode, any person residing therein who is at least 18 years old, but if such place is a rooming house, hotel, club or apartment building, a copy may be delivered to such person who resides with the individual or is either a member of the individual's family or the manager or proprietor of such place; or upon the individual's spouse at a place other than the individual's dwelling house or usual place of abode if probable cause exists to believe that the spouse lives at the individual's dwelling house or usual place of abode.

1.305(2) Upon a minor by serving the minor's conservator or guardian, unless the notice is served on behalf of such conservator or guardian, or the minor's parent, or some person aged 18 years or more who has the minor's care and custody, or with whom the minor resides, or in whose service the minor is employed. Where the notice is served on behalf of one who is the conservator or guardian and the conservator or guardian is the only person who would be available upon whom service could be made, the court shall appoint, without prior notice to the ward, a guardian ad litem who shall be served and defend for the minor.

1.305(3) Upon any person adjudged incompetent but not confined in a state hospital for the mentally ill, by serving the conservator or guardian, unless the notice is served on behalf of such conservator or guardian, or that person's spouse, or some person aged 18 years or more who has that person's care and custody, or with whom that person resides. When the notice is served on behalf of one who is the conservator or guardian and the conservator or guardian is the only person who would be available upon whom service could be made, the court shall appoint without prior notice to the ward a guardian ad litem who shall be served and defend for the incompetent person.

1.305(4) Any person confined in a county care facility, or in any state hospital for the mentally ill, or any patient in the State University of Iowa hospital or its psychopathic ward, or any patient or inmate of any institution in the control of a director of a division of the department of human services or department of corrections or of the United States, may be served by the official in charge of such institution or that official's assistant. Proof of such service may be made by the certificate of such official, if the institution is in Iowa, or that official's affidavit if it is out of Iowa.

1.305(5) If any defendant, respondent, or other party is a patient in any state or federal hospital for the mentally ill, in or out of Iowa, or has been adjudged incompetent and is confined to a county care facility, the official in charge of such institution or the official's assistant shall accept service on the party's behalf, if in the official's or assistant's opinion direct service on the party would cause injury, which shall be stated in the acceptance.

1.305(6) Upon a partnership, or an association suable under a common name, or a corporation, by serving any present or acting or last known officer thereof, or any general or managing agent, or any agent or person now authorized by appointment or by law to receive service of original notice, or on the general partner of a partnership.

1.305(7) If the action, whether against an individual, corporation, partnership or other association suable under a common name, arises out of or is connected with the business of any office or agency maintained by the defendant in a county other than where the principal resides, by serving any agent or clerk employed in such office or agency.

1.305(8) Upon any city by serving its mayor or clerk.

1.305(9) Upon any county by serving its auditor or the chair of its board of supervisors.

1.305(10) Upon any school district, school township or school corporation by serving its president or secretary.

1.305(11) Upon the state, where made a party pursuant to statutory consent or authorization for suit in the manner provided by any applicable statute.

1.305(12) Upon any individual, corporation, partnership or association suable under a common name, either as provided in these rules, as provided by any consent to service or in accordance with any applicable statute.

1.305(13) Upon a governmental board, commission or agency, by serving its presiding officer, clerk or secretary.

1.305(14) If service cannot be made by any of the methods provided by this rule, any defendant may be served as provided by court order, consistent with due process of law.

[Report 1943; amendment 1945; amended by 58GA, ch152, §201; amended by 62GA, ch 209, §443; amendment 1974; amendment 1975; 1986 Iowa Acts, H.F. 721, §1; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; November 22, 2002, effective February 1, 2003]

Rule 1.306 Alternate method of service. Every corporation, individual, personal representative, partnership or association that shall have the necessary minimum contact with the state of Iowa shall be subject to the jurisdiction of the courts of this state, and the courts of this state shall hold such corporation, individual, personal representative, partnership or association amenable to suit in Iowa in every case not contrary to the provisions of the Constitution of the United States.

Service may be made on any such corporation, individual, personal representative, partnership or association as provided in rule 1.305 within or without the state or, if such service cannot be so made, in any manner consistent with due process of law prescribed by order of the court in which the action is brought.

Nothing herein shall limit or affect the right to serve an original notice upon any corporation, individual, personal representative, partnership or association within or without this state in any manner now or hereafter permitted by statute or rule.

[Report 1975; November 9, 2001, effective February 15, 2002]

Rule 1.307 Member of general assembly. No member of the general assembly shall be held to move or answer in any civil action in any court in this state while such general assembly is in session. [Report 1943; Report 1978, effective July 1, 1979; April 30, 1987, effective July 1, 1987; November 9, 2001, effective February 15, 2002]

Rule 1.308 Returns of service.

1.308(1) Signature; fees. Iowa officers may make unsworn returns of original notices served by them, as follows: Any sheriff or deputy sheriff, as to service in that officer's own or a contiguous county; any other peace officer, bailiff, or marshal, as to service in that officer's own territorial jurisdiction. The court shall take judicial notice of such signatures. All other returns, except those specified in rules 1.305(4) and 1.305(5), shall be proved by the affidavit of the person making the service. If served in the state of Iowa by a person other than such peace officer acting within the territories above defined or in another state by a person other than a sheriff or other peace officer, reasonable fees or mileage, not to exceed those allowed to a sheriff under Iowa Code section 331.655, shall be taxed as costs.

1.308(2) Contents. A return of personal service shall state the time, manner, and place thereof and name the person to whom copy was delivered; and if delivered under rule 1.305(1) to a person other than defendant, respondent, or other party, it must also state the facts showing compliance with said rule.

1.308(3) Endorsement and filing. If a sheriff receives the notice for service, the sheriff shall note thereon the date when received, and serve it without delay in the sheriff's own or a contiguous county, and upon receiving the appropriate fees, the sheriff shall either file it and the return with the clerk, or deliver it by mail or otherwise to the person from whom the sheriff received it.

1.308(4) *Proof of service.* The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. Failure to make proof of service does not affect the validity of the service.

1.308(5) *By mail.* Where service includes notice by mail, proof of such mailing shall be by affidavit. The affidavit, with a duplicate copy of the papers referred to in the affidavit attached thereto, shall be forthwith filed with the court.

[Report 1943; amendment 1975; February 13, 1986, effective July 1, 1986; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.309 Amendment of process or proof of service. The court may allow any process or proof of service thereof to be amended at any time in its discretion and upon such terms as it deems just, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

[Report 1975; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.310 Service by publication; what cases. After filing an affidavit that personal service cannot be had on an adverse party in Iowa, the original notice may be served by publication, in any action brought for the following:

1.310(1) For recovery of real property or any estate or interest therein.

1.310(2) For the partition of real or personal property in Iowa.

1.310(3) To foreclose a mortgage, lien, encumbrance or charge on real or personal property.

1.310(4) For specific performance of a contract for sale of real estate.

1.310(5) To establish, set aside or construe a will, if defendant, respondent, or other party resides out of Iowa, or if the residence is unknown.

1.310(6) Against a nonresident of Iowa or a foreign corporation which has property, or debts owing to it in Iowa, sought to be taken by any provisional remedy, or appropriated in any way.

1.310(7) Against any defendant, respondent, or other party who, being a nonresident of Iowa, or a foreign corporation, has or claims any actual or contingent interest in or lien on real or personal property in Iowa which is the subject of such action, or to which it relates; or where the action seeks to exclude such defendant, respondent, or other party from any lien, interest or claim therein.

1.310(8) Against any resident of the state who has departed therefrom, or from the county of defendant's, respondent's or other party's residence, with intent to delay or defraud creditors, or to avoid service, or a defendant, respondent or other party who keeps concealed with like intent.

1.310(9) For dissolution of marriage or separate maintenance or to modify a decree in such action, or to annul an illegal marriage, against a party who is a nonresident of Iowa or whose residence is unknown.

1.310(10) To quiet title to real estate, against a party who is a nonresident of Iowa, or whose residence is unknown.

1.310(11) Against a partnership, corporation or association suable under a common name, when no person can be found on whom personal service can be made.

1.310(12) To vacate or modify a judgment or for a new trial under rules 1.1012 and 1.1013.

[Report 1943; amendment 1945; Report 1978, effective July 1, 1979; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.311 Known defendants.

1.311(1) In every case where service of original notice is made upon a known defendant, respondent, or other party by publication, copy of the notice shall also be sent by ordinary mail addressed to such party at the party's last-known mailing address, unless an affidavit of a party or that party's attorney is filed stating that no mailing address is known and that diligent inquiry has been made to ascertain it.

1.311(2) Such copy of notice shall be mailed by the party, the party's agent or attorney not less than 20 days before the date for motion or answer.

1.311(3) Proof of such mailing shall be by affidavit, and such affidavit or the affidavit referred to in rule 1.311(1) shall be filed before the entry of judgment or decree. The court, in its judgment or decree, or prior thereto, shall make a finding that the address to which such copy was directed is the last-known mailing address, or that no such address is known, after diligent inquiry.

[Report 1951; Report 1978, effective July 1, 1979; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.312 Unknown defendants, respondents, or other parties. The original notice against unknown parties shall be directed to the unknown claimants of the property involved, describing it. It shall otherwise comply with rule 1.302.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.313 How published. After the filing of a petition, publication of the original notice shall be made once each week for three consecutive weeks in a newspaper of general circulation published in the county where the petition is filed. The newspaper shall be selected by the plaintiff.

[Report 1943; amendment 1951; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.314 Proof of publication. Before default is taken, proof of such publication shall be filed, sworn to by the publisher or an employee of the newspaper.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.315 Actual service. Service of original notice in or out of Iowa according to rule 1.305 supersedes the need of its publication.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rules 1.316 to 1.400 Reserved.

DIVISION IV PLEADINGS AND MOTIONS

A. PLEADINGS GENERALLY

Rule 1.401 Allowable pleadings. There shall be a petition and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a cross-petition, if a person who was not an original party is summoned under the provisions of rule 1.246; and an answer to cross-petition, if a cross-petition is served.

[Report 1943; amendment 1974; Report 1978, effective July 1, 1979; November 9, 2001, effective February 15, 2002]

Rule 1.402 General rules of pleading.

1.402(1) Form and sufficiency. The form and sufficiency of all pleadings shall be determined by these rules, construed and enforced to secure a just, speedy and inexpensive determination of all controversies on their merits.

1.402(2) Pleading to be concise and direct; consistency.

a. Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleadings are required.

b. A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has regardless of consistency and whether based on legal or equitable grounds. "Pleadings" as used in these rules do not include motions.

1.402(3) Correcting or recasting pleadings. On its own motion or that of any party, the court may order any prolix, confused or multiple pleading to be recast in a concise single document within such time as the order may fix. In like manner, it may order any pleading not complying with these rules to be corrected on such terms as it may impose.

1.402(4) Amendments. A party may amend a pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is required and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise, a party may amend a pleading only by leave of court or by written consent of the adverse party. Leave to amend, including leave to amend to conform to the proof, shall be freely given when justice so requires.

1.402(5) Making and construing amendments. All amendments must be on a separate paper, duly filed, without interlining or expunging prior pleadings. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to

be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against the party, the party to be brought in by amendment has received such notice of the institution of the action that the party will not be prejudiced in maintaining a defense on the merits, and knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.403 Claims for relief.

1.403(1) *Generally.* A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or cross-petition, shall contain a short and plain statement of the claim showing that the pleader is entitled to relief and a demand for judgment for the type of relief sought. Relief in the alternative or of several different types may be demanded. Except in small claims and cases involving only liquidated damages, a pleading shall not state the specific amount of money damages sought but shall state whether the amount of damages meets applicable jurisdictional requirements for the amount in controversy. The specific amount and elements of monetary damages sought may be obtained through discovery.

1.403(2) *Petition.* The petition shall state whether it is at law or in equity.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.404 Appearances.

1.404(1) *By attorney.* An attorney making an appearance shall, either by filing written appearance or by signature to the first pleading or motion filed by the attorney, clearly indicate the attorney or attorneys in charge of the case and shall not sign in the name of the firm only. Such appearance shall entitle the attorney to service as provided in rule 1.442.

1.404(2) *Appearance alone.* The court shall have no power to treat an appearance as sufficient to delay or prevent a default or any other order which would be made in absence thereof, or of timely pleading. Notice and opportunity to respond to any motion for judgment under rule 1.973(2) shall be given to any party who has appeared.

1.404(3) *Limited appearance.* Pursuant to Iowa R. Prof'l Conduct 32:1.2(c), an attorney's role may be limited to one or more individual proceedings in the action, if specifically stated in a notice of limited appearance filed and served prior to or simultaneously with the proceeding. If the attorney appears at a hearing on behalf of a client pursuant to a limited representation agreement, the attorney shall notify the court of that limitation at the beginning of that hearing.

1.404(4) *Termination of limited appearance.* At the conclusion of a proceeding in which an attorney has appeared pursuant to a limited representation agreement, the attorney's role terminates without the necessity of leave of court upon the attorney's filing a notice of completion of limited appearance. The notice of completion of limited appearance shall state that the attorney was retained to perform a limited service; shall describe the limited service; shall state that the service has been completed; and shall include the personal identification number, address, telephone number and, if available, facsimile transmission number of the client. The attorney shall serve a copy of the notice on the client and all other parties to the action or their attorneys.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; March 12, 2007, effective May 15, 2007]

Rule 1.405 Answer.

1.405(1) *Generally.* The answer shall show on whose behalf it is filed, and specifically admit or deny each allegation or paragraph of the pleading to which it responds, which denial may be for lack of information. It must state any additional facts deemed to show a defense. It may raise points of law appearing on the face of the pleading to which it responds. It may contain a counterclaim which must be in a separate division.

1.405(2) *Answers for ward.* All answers by conservators, guardians or guardians ad litem, or filed under rule 1.212, shall state whether proper service has been had on the ward; and they shall deny all material allegations prejudicial to the ward.

1.405(3) *What admitted.* Every fact pleaded and not denied in a subsequent pleading as permitted by these rules shall be deemed admitted except for any of the following:

- a. Allegations of value or amount of damage.

- b. Averments in a pleading to which no responsive pleading is required or permitted.
- c. Facts not previously pleaded that are set forth in pleadings filed subsequent to the seventh day preceding the trial, all of which shall be deemed denied by operation of law.

1.405(4) Denying signature.

a. *By party.* If a pleading copies a writing purporting to be signed by an adverse party, such signature shall be deemed genuine for all purposes in the case, unless such party denies it and supports the denial by the party's affidavit that it is not a genuine or authorized signature. The party may, on application made during the time to plead, procure an inspection of the original writing.

b. *By nonparty.* If a pleading copies a nonnegotiable writing purporting to be signed by a nonparty to the action, such signature shall be deemed genuine, unless a party denies it, and supports the denial by affidavit, which denial may be for lack of information.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.406 Reply. The court may order a reply to an answer or to an answer to a cross-petition.

[Report 1943; amendment 1974; Report 1978, effective July 1, 1979; November 9, 2001, effective February 15, 2002]

Rule 1.407 Interventions.

1.407(1) Intervention of right. Upon timely application, anyone shall be permitted to intervene in an action under any of the following circumstances:

- a. When a statute confers an unconditional right to intervene.
- b. When the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

1.407(2) Permissive intervention. Upon timely application, anyone may be permitted to intervene in an action under any of the following circumstances:

- a. When a statute confers a conditional right to intervene.
- b. When an applicant's claim or defense and the main action have a question of law or fact in common.
- c. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action.

In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

1.407(3) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

1.407(4) Disposition. The court shall grant interventions of right unless the applicant's interest is adequately represented by existing parties. The court shall consider applications for permissive intervention and grant or deny the application as the circumstances require. The intervenor shall have no right to delay, and shall pay the costs of the intervention unless the intervenor prevails.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

COMMENT: The amendments to former Iowa R. Civ. P. 75, now rule 1.407, adopted provisions substantially similar to Fed. R. Civ. P. 24 and allow the trial court more discretion in determining whether to allow intervention.

Rules 1.408 to 1.410 Reserved.

B. PLEADINGS; FORMAT AND CONTENT

Rule 1.411 Caption and signature.

1.411(1) Required information. Each appearance, notice, motion, or pleading shall be captioned with the title of the case, naming the court, parties, and instrument, and shall bear the signature, personal identification number, address, telephone number, and, if available, facsimile transmission number and e-mail address of the party or attorney filing it. The caption of the first papers filed or served by or on behalf of any named party shall include the personal identification number of each named party if available or as soon as is available. The caption of a petition shall state whether the

action is at law or equity. In all subsequent papers filed or served, the caption need name only the first of several coparties.

1.411(2) *Personal identification numbers.* In lieu of including social security numbers on pleadings, parties shall complete a confidential information form available from the clerk of court. The clerk shall separately file the confidential information forms, and the social security numbers contained therein shall be confidential and cannot be disclosed except as authorized by federal or state law.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; May 14, 2007, effective July 15, 2007]

Rule 1.412 Paragraphs; separate statements. All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

[Report 1943; amendment 1976; November 9, 2001, effective February 15, 2002]

Rule 1.413 Verification abolished; affidavits; certification.

1.413(1) Pleadings need not be verified unless special statutes so require and, where a pleading is verified, it is not necessary that subsequent pleadings be verified unless special statutes so require. Counsel's signature to every motion, pleading, or other paper shall be deemed a certificate that: counsel has read the motion, pleading, or other paper; that to the best of counsel's knowledge, information, and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or cause an unnecessary delay or needless increase in the cost of litigation. If a motion, pleading, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a motion, pleading, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the motion, pleading, or other paper, including a reasonable attorney fee. The signature of a party shall impose a similar obligation on such party. This rule does not apply to disclosures, discovery requests, responses, objections, and motions under rules 1.500 through 1.517, which are governed by rule 1.503(6).

1.413(2) If a party commencing an action has in the preceding five-year period unsuccessfully prosecuted three or more actions, the court may, if it deems the actions to have been frivolous, stay the proceedings until that party furnishes an undertaking secured by cash or approved sureties to pay all costs resulting to opposing parties to the action including a reasonable attorney fee.

1.413(3) Any motion asserting facts as the basis of the order it seeks, and any pleading seeking interlocutory relief, shall contain or be accompanied by an affidavit of the person or persons knowing the facts requisite to such relief. A similar affidavit shall be appended to all petitions which special statutes require to be verified.

1.413(4) Any pleading, motion, affidavit, or other document required to be verified under Iowa law may, alternatively, be certified pursuant to Iowa Code section 622.1, using 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"

[Report 1943; amendment 1945; Report January 21, 1986, effective April 1, 1986; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

Rule 1.414 Supplemental pleadings. By leave of court, upon reasonable notice and upon such terms as are just, or by written consent of the adverse party, a party may serve and file a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of

the pleading sought to be supplemented. Leave may be granted even though the original pleading is defective in its statement of a claim for relief or defense. No responsive pleading to the supplemental pleading is required unless the court, upon its own motion or the motion of a party, so orders, specifying the time therefor.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.415 Judicial notice; statutes. Matters of which judicial notice is taken, including statutes of Iowa, need not be stated in any pleading. A pleading asserting any statute of another state, territory or jurisdiction of the United States, or a right derived therefrom, shall refer to such statute by plain designation and if such reference is made the court shall judicially notice such statute.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.416 Negligence; mitigation. In an action by an employee against an employer, or by a passenger against a common carrier to recover for negligence, plaintiff need not plead or prove freedom from contributory negligence, but defendant may plead and prove contributory negligence in mitigation of damages.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.417 Permissible conclusions; denials. The following may be pleaded as legal conclusions without averring the facts comprising them: partnership, corporate or representative capacity; corporate authority to sue or do business in Iowa; performance of conditions precedent; or judgments of a court, board or officer of special jurisdiction. It shall not be sufficient to deny such averment in terms contradicting it, but the facts relied on must be stated.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.418 Contract. Every pleading referring to a contract must state whether it is written or oral.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.419 Defenses to be specially pleaded. Any defense that a contract or writing sued on is void or voidable, or was delivered in escrow, or which alleges any matter in justification, excuse, release or discharge, or which admits the facts of the adverse pleading but seeks to avoid their legal effect, must be specially pleaded.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.420 Account; bill of particulars; denial. A pleading founded on an account shall contain a bill of particulars thereof, by consecutively numbered items, which shall define and limit the proof, and may be amended as other pleadings. A pleading controverting such account must specify the items denied, and any items not thus specified shall be deemed admitted.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.421 Defenses; how raised; consolidation; waiver.

1.421(1) Every defense to a claim for relief in any pleading must be asserted in the pleading responsive thereto, or in an amendment to the answer made within 20 days after service of the answer, or if no responsive pleading is required, then at trial. The following defenses or matters may be raised by pre-answer motion:

- a. Lack of jurisdiction of the subject matter.
- b. Lack of jurisdiction over the person.
- c. Insufficiency of the original notice or its service.
- d. To recast or strike.
- e. For more specific statement.
- f. Failure to state a claim upon which any relief may be granted.

1.421(2) Improper venue under rule 1.808 must be raised by pre-answer motion filed prior to or in a single motion under rule 1.421(3).

1.421(3) If the grounds therefor exist at the time a pre-answer motion is made, motions under rule 1.421(1)(b) through 1.421(1)(f) shall be contained in a single motion and only one such motion assailing the same pleading shall be permitted, unless the pleading is amended thereafter.

1.421(4) If a pre-answer motion does not contain any matter specified in rule 1.421(1) or 1.421(2) that matter shall be deemed waived, except lack of jurisdiction of the subject matter or failure to state a claim upon which relief may be granted.

1.421(5) Sufficiency of any defense may be raised by a motion to strike it, filed before pleading to it.

1.421(6) Motions under this rule must specify how the pleading they attack is claimed to be insufficient.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; September 16, 2004, effective December 1, 2004]

Rule 1.422 Protected information. It is the responsibility of counsel and the parties to ensure that protected information is omitted or redacted from documents or exhibits filed with the court. The clerk of court will not review filings to determine whether the required omissions or redactions have been made.

1.422(1) Omission or redaction required. In all civil proceedings and special actions a party shall omit or redact protected information from documents and exhibits filed with the court unless the information is material to the proceedings or disclosure is otherwise required by law.

a. "Protected information" includes the following:

- (1) Social security numbers.
- (2) Financial account numbers.
- (3) Personal identification numbers.
- (4) Other unique identifiers.

b. If a social security number must be included in a document only the last four digits of that number should be used. If financial account numbers must be included only incomplete numbers should be recited in the document.

c. Parties are not required to omit or redact protected information from materials or cases deemed confidential by any statute or rule of the supreme court; however, omission or redaction is required for materials that are initially confidential but which later become public, such as records in dissolution proceedings.

1.422(2) Omission or redaction allowed. A party may omit or redact any of the following information from documents and exhibits filed with the court unless the information is material to the proceedings or disclosure is otherwise required by law:

- a. Other personal identifying numbers, such as driver's license numbers.
- b. Information concerning medical treatment or diagnosis.
- c. Employment history.
- d. Personal financial information.
- e. Proprietary or trade secret information.
- f. Information concerning a person's cooperation with the government.
- g. Information concerning crime victims.
- h. Sensitive security information.
- i. Home addresses.
- j. Dates of birth.
- k. Names of minor children.

[Report May 31, 2006, effective September 1, 2006; August 28, 2006, effective November 1, 2006]

Rule 1.423 Limited representation pleadings and papers.

1.423(1) Disclosure of limited representation. Every pleading or paper filed by a pro se party that was prepared with the drafting assistance of an attorney who contracted with the client to limit the scope of representation pursuant to Iowa R. Prof'l Conduct 32:1.2(c) shall state that fact before the signature line at the end of the pleading or paper that was prepared with the attorney's assistance. The attorney shall advise the client that such pleading or other paper must contain this statement. The pleading or paper shall also include the attorney's name, personal identification number, address, telephone number and, if available, facsimile transmission number, but shall not be signed by the attorney. If the drafting assistance was provided as part of services offered by a nonprofit legal services organization or a volunteer component of a nonprofit or court-annexed legal services program, the name, address, telephone number and, if available, facsimile transmission number of the program may be included in lieu of the business address, telephone number, and facsimile transmission number of the drafting attorney.

1.423(2) *Drafting attorney's duty.* In providing drafting assistance to the pro se party, the attorney shall determine, to the best of the attorney's knowledge, information, and belief, that the pleading or paper is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not filed for any improper purpose, such as to harass or to cause an unnecessary delay or needless increase in the cost of litigation. The attorney providing drafting assistance may rely on the pro se party's representation of facts, unless the attorney has reason to believe that such representation is false or materially insufficient, in which instance the attorney shall make an independent, reasonable inquiry into the facts.

1.423(3) *Not an appearance by attorney.* The identification of an attorney who has provided drafting assistance in the preparation of a pleading or paper shall not constitute an entry of appearance by the attorney for purposes of rule 1.404(1) and does not authorize service on the attorney or entitle the attorney to service as provided in rule 1.442.

[Report March 12, 2007, effective May 15, 2007]

Rules 1.424 to 1.430 Reserved.

C. MOTIONS

Rule 1.431 Motion practice; generally.

1.431(1) A motion is an application made by any party or interested person for an order related to the action. It is not a "pleading" but is subject to the certification requirements of rule 1.413(1).

1.431(2) Each motion filed shall be captioned and signed in accordance with rule 1.411 and shall set out the specific points upon which it is based.

1.431(3) A concise memorandum brief citing supporting authorities may be served in accordance with rule 1.442(4).

1.431(4) Unless otherwise ordered by the court or provided by rule or statute, each party opposing the motion shall file within ten days after a copy of the motion has been served a written resistance to the motion. A concise brief citing supporting authorities may be served in accordance with rule 1.442(4).

1.431(5) Within seven days after service of the resistance or before any hearing on the motion, whichever is earlier, the movant may file a reply and serve a concise reply brief in accordance with rule 1.442(4) to assert newly decided authority or to respond to new and unanticipated matters. The reply brief should not reargue points made in the opening brief.

1.431(6) Evidence to sustain or resist a motion may be made by affidavit or in any other form to which the parties agree or the court directs. The court may require any affiant to appear for cross-examination.

1.431(7) The trial court shall rule on all motions within 30 days after their submission, unless it extends the time for reasons stated of record.

1.431(8) The clerk of each court shall maintain a motion calendar on which every motion filed shall be entered. It shall be arranged to show the following:

- a. Docket, page and cause number of action in which filed.
- b. Abbreviated title of the case with surname of the first-named party on each side.
- c. Counsel of record for parties.
- d. Denomination of the motion.
- e. Date filed.
- f. Party by whom filed.
- g. Date entered on calendar.
- h. Date of disposition by ruling, order or otherwise.

Separate motion calendars for law, equity or other divisions may be maintained.

1.431(9) 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.

1.431(10) Hearings on temporary orders pursuant to Iowa Code sections 598.10 and 600B.40A, whether testimony is taken or not, shall occur in the presence of the parties who have appeared for the

hearing. If the court conducts the hearing by telephone or video conference, the parties are entitled to be present for the hearing by the same means the court uses to conduct the hearing.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; January 7, 2010, effective March 8, 2010; March 9, 2010, effective May 10, 2010; Court Order February 14, 2017, temporarily effective February 14, 2017, permanently effective April 17, 2017]

COMMENT: Rule 1.431 is a consolidation of former Iowa Rs. Civ. P. 109, 116, 117(c), 117(e), 117(f), and portions of 117(a), all of which pertained to motions, filing of motions, evidence to sustain or resist them, placing them on the motion calendar, and the time within which they should be ruled upon.

Rule 1.432 Failure to move; effect of overruling motion. No pleading shall be held sufficient for failure to move to strike or dismiss it. If such motion is filed and overruled, error in such ruling is not waived by pleading over or proceeding further; and the moving party may always question the sufficiency of the pleading during subsequent proceedings.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.433 Motion for more specific statement. A party may move for a more specific statement of any matter not pleaded with sufficient definiteness to enable the party to plead to it and for no other purpose. It shall point out the insufficiency claimed and particulars desired.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.434 Motion to strike. Improper or unnecessary matter in a pleading may be stricken out on motion of the adverse party.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.435 Motion days; submission of pretrial motions.

1.435(1) The chief judge of each judicial district shall provide by order for motion days to be held each month in each county, when all pretrial motions on file 14 days or more shall be deemed submitted unless a hearing has been set or another time for submission is fixed by rule, statute, or order of court entered for good cause shown. A party who has been served with original notice or has appeared shall take notice of the regular motion day on which motions will be heard.

1.435(2) The court may hear and rule on any motion prior to motion day so as not to delay completing the issues or trial of the case.

1.435(3) The court may require counsel to be apprised, in any manner it directs, of the time and place at which it will hear or act on any motion, application or other matter other than at the regular motion day. This subrule shall be applied to expedite, but not delay, hearings and submissions.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.436 to 1.440 Reserved.

D. TIME, FILING, AND NOTICE REQUIREMENTS

Rule 1.441 Time to move or plead.

1.441(1) Motions. Motions attacking a pleading must be served before responding to the pleading or, if no responsive pleading is required by these rules, within 20 days after the service of the pleading on such party.

1.441(2) Pleading. Answer to a petition must be served on or before the date prescribed in accordance with rule 1.303. A party served with a pleading stating a cross-claim against the party shall serve an answer thereto within 20 days after the service of the pleading upon the party. The plaintiff shall serve a reply to a counterclaim in the answer within 20 days after service of the answer, or if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs.

1.441(3) Time after filing motions. The service of a motion permitted under the rules in this chapter alters these periods of time as follows, unless a different time is fixed by order of the court.

If the motion is so disposed of as to require further pleading, such pleading shall be served within ten days after notice of the court's action.

1.441(4) Response to amendments. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten days after service of the amended pleading, whichever is longer, unless the court otherwise orders.

1.441(5) *Shortening time.* The court may order any motion or pleading to be filed within a shorter time than specified above.

1.441(6) *Extending time.* For good cause, but not ex parte, the court may extend the time to answer or reply for not more than 30 days beyond the times above specified. For good cause but not ex parte, and upon such terms as the court prescribes, the court may grant a party the right to file an answer or reply where the time to file same has expired.

1.441(7) *Notice of removal to federal court.* The filing of a notice of removal to the federal court shall suspend the jurisdiction of the state court until an order of the federal court, remanding the cause, or determining that the removal has not been perfected, is filed in the state court. Thereupon, the times fixed for motions or pleadings shall begin anew.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.442 Service and filing of pleadings and other papers.

1.442(1) *When service is required.* Unless the court otherwise orders, everything required to be filed by the rules in this chapter; every order required by its terms to be served; every pleading subsequent to the original petition; every paper relating to discovery; every written motion including one which may be heard ex parte; and every written notice, appearance, demand, offer of judgment, and similar paper shall be served upon each of the parties. No service need be made on any party against whom a default has been entered except that pleadings asserting new or additional claims for relief against the party shall be served upon the party in the manner provided for service of original notice in rule 1.305. In an action begun by seizure of property, in which no person need be or is named as defendant, any service required to be made prior to the filing of an answer, claim, or appearance shall be made upon the person having custody or possession of the property at the time of its seizure.

1.442(2) *How service is made.* Service upon a party represented by an attorney shall be made upon the attorney unless service upon the party is ordered by the court. Service on an attorney who has made a limited appearance for a party shall constitute valid service on the represented party only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared. Service shall be made by delivering, mailing, or transmitting by fax (facsimile) a copy to the attorney or to the party at the attorney's or party's last known address or, if no address is known, by leaving it with the clerk of court. Delivery within this rule means: handing it to the attorney or to the party; leaving it at the attorney's or party's office; or, if the office is closed or the person to be served has no office, leaving it at the attorney's or party's dwelling house or usual place of abode with some person of suitable age and discretion residing therein. Service by mail is complete upon mailing.

Service may also be made upon a party or attorney by electronic mail (e-mail) if the person consents in writing in that case to be served in that manner. The written consent shall specify the e-mail address for such service. The written consent may be withdrawn by written notice served on all other parties or attorneys. Service by electronic means is complete upon transmission, unless the party making service learns that the attempted service did not reach the person to be served.

1.442(3) *Same: numerous defendants.* In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

1.442(4) *Filing.* Except as provided in rule 1.502, all papers after the petition required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter; however, no party shall file legal briefs or memoranda, except in support of or resistance to a motion for summary judgment, unless expressly ordered by the court. Such briefs and memoranda shall be served upon the parties with an original copy delivered to the presiding judge. The party submitting the legal brief or memoranda shall file a statement certifying compliance with this rule. Whenever these rules or the rules of appellate procedure require a filing with the district court or its clerk within a certain time, the time requirement shall be tolled when service is made, provided the actual filing is done within a reasonable time thereafter.

1.442(5) *Filing with the court defined.* The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that a judicial

officer may permit them to be filed with the judicial officer, who shall note thereon the filing date and time and forthwith transmit them to the office of the clerk.

1.442(6) *Notice of orders or judgments.* Immediately upon the entry of an order or judgment the clerk shall serve a notice of the entry by mail in the manner provided for in this rule upon each party except a party against whom a default has been entered and shall make a note in the docket of the mailing. In the event a case involves an appeal or review relating to an administrative agency, officer, commissioner, board, administrator, or judge, the clerk shall mail without cost to the applicable administrative agency, officer, commissioner, board, administrator, or judge a copy of any remand order, final judgment or decision in the case and a copy of any procedendo from the supreme court.

Such mailing is sufficient notice for all purposes for which notice of the entry of an order is required by the rules in this chapter; but any party may in addition serve a notice of such entry in the manner provided in this rule for the service of papers. Lack of notice of the entry by the clerk does not affect the time to appeal or relieve or authorize the district court to relieve a party for failure to appeal within the time allowed.

1.442(7) *Certificate of service.* All papers required or permitted to be served or filed shall include a certificate of service. Action shall not be taken on any paper until a certificate of service is filed in the clerk's office. The certificate shall identify the document served and include the date, manner of service, names and addresses of the persons served. The certificate shall be signed by the person making service. Unless ordered by the court, no other proof of service shall be filed.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; November 22, 2002, effective February 1, 2003; March 12, 2007, effective May 15, 2007; November 12, 2009, effective January 11, 2010]

COMMENT: Rule 1.442(2) authorizes service by facsimile transmission and deletes archaic and unnecessary language regarding service by delivery to a clerk or person in charge of an office which is not closed. Rule 1.442(7) clarifies that all documents served or filed shall include a certificate of service, that proofs of service shall not be filed regarding documents that are not to be filed, and it sets forth the requirements of a certificate of service and prohibits the filing of other proofs of service unless ordered by the Court.

Rule 1.443 Enlargement; additional time after service.

1.443(1) *Enlargement.* When by the rules in this chapter or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion do the following:

a. With or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order.

b. Upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under rules 1.1001, 1.1003, and 1.1004, except to the extent and under the conditions stated in rule 1.1007.

1.443(2) *Additional time after service by mail, e-mail, or facsimile transmission.* When by the rules in this chapter a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, e-mail, or facsimile transmission, three days shall be added to the prescribed period. Such additional time shall not be applicable where a court has prescribed the method of service of notice and the number of days to be given or where the deadline runs from entry or filing of a judgment, order or decree.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; November 22, 2002, effective February 1, 2003]

Rule 1.444 Pleading over; election to stand. If a party is required or permitted to plead further by an order or ruling, the clerk shall forthwith mail or deliver notice of such order or ruling to the attorneys of record. Unless otherwise provided by order or ruling, such party shall file such further pleading within ten days after such mailing or delivery; and if such party fails to do so within such time, the party thereby elects to stand on the record theretofore made. On such election, the ruling shall be deemed a final adjudication in the trial court without further judgment or order; reserving only such issues, if any, which remain undisposed of by such ruling and election.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.445 to 1.450 Reserved.

E. COURT ACTION

Rule 1.451 Specific rulings required. A motion, or other matter involving separate grounds or parts, shall be disposed of by separate ruling on each and not sustained generally.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.452 Order defined. Every direction of the court, made in writing and not included in the judgment or decree, is an order.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.453 When and how entered. A judge may enter judgments, orders or decrees at any time after the matter has been submitted, effective when filed with the clerk, or as provided by rule 1.442(5). The clerk shall promptly mail or deliver notice of such entry, or copy thereof, to each party appearing, or to one of the party's attorneys. The clerk is authorized to deliver any judgments, orders, decrees or notices to the e-mail address provided by the attorney or party.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; June 29, 2009, effective August 28, 2009]

Rule 1.454 Reserved.

Rule 1.455 Preliminary determination. On application of any party, the motion for judgment on the pleadings under rule 1.954, 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 rule 1.234, whether made in a pleading or by motion, shall be determined before trial, unless the court orders that determination thereof be deferred until the trial.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.456 Cross-petition, cross-claim, counterclaim; judgment. Where judgment in the original case can be entered without prejudice to the rights in issue under a cross-petition, cross-claim or counterclaim, it shall not be delayed thereby.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.457 Amending to conform to the evidence. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be served thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice that party in maintaining the action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.458 Special action; proper remedy awarded. In any case of mandamus, certiorari, appeal to the district court, or for specific equitable relief, where the facts pleaded and proved do not entitle the petitioner to the specific remedy asked, but do show the petitioner entitled to another remedy, the court shall permit the petitioner on such terms, if any, as it may prescribe, to amend by asking for such latter remedy, which may be awarded.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.459 to 1.499 Reserved.

DIVISION V
DISCOVERY AND INSPECTION

Rule 1.500 Duty to disclose; required disclosures.

1.500(1) Initial disclosures.

a. In general. Except as exempted by rule 1.500(1)(e) or as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:

(1) The name and, if known, the address, telephone numbers, and electronic mail address of each individual likely to have discoverable information, along with the subjects of that information, that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

(2) All documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

1. Unless good cause exists for not doing so, copies of the documents or electronically stored information listed must be served with the disclosure.

2. If copies of any document or electronically stored information are not produced, the disclosing party must state the good cause for not producing the items and provide a description by category, location, and the name and address of the custodian of the document or electronically stored information.

3. A party who provides documents in disclosure must produce them as they are kept in the usual course of business.

(3) A computation of each category of damages claimed by the disclosing party, who must also make available for inspection and copying as under rule 1.512 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; provided, however, that this rule 1.500(1)(a)(3) does not require disclosure of the exact dollar amounts claimed for noneconomic damages.

(4) For inspection and copying as under rule 1.512, and notwithstanding rule 1.503(2), the declarations page of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment that may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment, and, in any action in which coverage is or may be contested, a copy of the agreement and all letters from the insurer to the insured regarding coverage.

b. Claims for personal or emotional injury. Except as exempted by rule 1.500(1)(e) or as otherwise stipulated or ordered by the court, and in addition to the initial disclosures required by rule 1.500(1)(a), any party asserting a claim for damages for personal or emotional injuries must, without awaiting a discovery request, provide to the other parties:

(1) The claimant's full name and date of birth.

(2) The claimant's Medicare health insurance claim number (HICN).

(3) The names and addresses of all doctors, hospitals, clinics, pharmacies, and other health care providers claimant consulted within five years prior to the date of injury up to the present date.

(4) Legally sufficient written waivers allowing the opposing party to obtain those records subject to appropriate protective provisions authorized by rule 1.504. The opposing party must give contemporaneous notice to the claimant when the opposing party uses the waivers to obtain records and must provide a copy of all records obtained by waiver to the claimant and all other parties. Any party who requests that the opposing party produce these records in nonelectronic form must bear the opposing party's costs of producing them in that form.

c. Claims for lost time or earning capacity. Except as exempted by rule 1.500(1)(e) or as otherwise stipulated or ordered by the court, and in addition to the initial disclosures required by rule 1.500(1)(a), any party asserting a claim for damages for lost time or lost earning capacity must, without awaiting a discovery request, provide to the other parties:

(1) The claimant's federal and state income tax returns for the five years prior to the date of disclosure.

(2) The names and addresses of all persons by whom the claimant has been employed for the five years prior to the date of disclosure.

(3) Legally sufficient written waivers allowing the opposing party to obtain the claimant's personnel files and payment histories from each employer subject to appropriate protective provisions authorized by rule 1.504.

1. The opposing party must give contemporaneous notice to the claimant when the opposing party uses the waiver to obtain records and must provide a copy of all records obtained by waiver to the claimant and all other parties.

2. Any party who requests that the opposing party produce these records in nonelectronic form must bear the opposing party's costs of producing them in that form.

d. Domestic relations proceedings.

(1) Except as otherwise stipulated or ordered by the court and in lieu of the initial disclosures required by rule 1.500(1)(a), in domestic relations actions involving any contested claim, including divorce, custody, modification, and paternity actions, each party must, without awaiting a discovery request, provide to the other party copies of the following:

1. Paystubs or other documentation showing the party's income from all sources, deductions for federal and state taxes, health insurance premiums, union dues, and mandatory pension withholdings for the past six months. If children are involved, the party providing health insurance must provide a breakdown of the cost of an individual health insurance plan and the cost of a family plan.

2. The party's federal and state income tax returns, including all schedules and W-2's, for the three most recent years if not in the possession of the other person.

3. A current financial affidavit, including a description of all assets and liabilities.

4. Statements of account or other documentation to support the assets or liabilities listed in the financial affidavit.

(2) If the action is a modification case or an unmarried custody case, the parties must provide only the information contained in rules 1.500(1)(d)(1)(1) and 1.500(1)(d)(1)(2).

e. Proceedings exempt from initial disclosure. Unless otherwise ordered by the court or agreed to by the parties, the requirements of rules 1.500(1)(a) through (d) do not apply to the following:

(1) Actions for certiorari or for judicial review of administrative agency actions under Iowa Code chapter 17A.

(2) Actions for forcible entry and detainer.

(3) Domestic relations proceedings in which there are no contested claims.

(4) Adoption proceedings, name change proceedings, actions under Iowa Code chapter 236, and actions initiated by the Child Support Recovery Unit.

(5) Foreclosure proceedings in which there are no contested claims.

(6) Actions for postconviction relief or any other proceeding to challenge a criminal conviction or sentence.

(7) Probate proceedings in which there are no contested claims.

(8) Juvenile proceedings.

(9) Mental health proceedings.

(10) Actions under Iowa Code chapters 225, 229, and 229A.

(11) Actions to enforce an arbitration award or an out-of-state judgment.

(12) Small claims proceedings under Iowa Code chapter 631.

f. Time for initial disclosures in general. Except in domestic relations proceedings, a party must make the initial disclosures at or within 14 days after the parties' rule 1.507 discovery conference unless a different time is set by stipulation or court order, or unless a party objects during the conference that initial disclosures are not appropriate in the action and states the objection in the proposed discovery plan. In ruling on the objection, the court must determine what disclosures, if any, are to be made and must set the time for disclosure. In domestic relations proceedings, a party must make the initial disclosures within 60 days of filing of the petition unless a different time is set by stipulation or court order or unless the court, upon motion, relieves the parties from the obligation to provide initial disclosures.

g. Time for initial disclosures for parties served or joined later. A party who is first served or otherwise joined after the rule 1.507 discovery conference must make the initial disclosures within 30 days after being served or joined, unless a different time is set by stipulation or court order.

h. Basis for initial disclosure; unacceptable excuses. A party must make the initial disclosures based on the information then reasonably available to the party. A party is not excused from making the disclosures because the party has not fully investigated the case, because the party challenges the

sufficiency of another party's disclosures, because another party has not made that party's disclosures, or because the information is in the possession, custody, or control of the party's insurance carrier.

COMMENT:

Rule 1.500. The entirety of rule 1.500 is added. With some modifications, the rule adopts the required disclosures currently used by the federal courts and by a number of states that have also recently engaged in civil justice reform. Like its federal counterpart, the rule seeks to accelerate the exchange of basic information and eliminate the delay and expense of serving formal discovery requests seeking routine information that will be produced as a matter of course in most cases.

The information disclosed under rule 1.500(1) is subject to a continuing duty to supplement. *See* rule 1.500(5).
[Court Order August 28, 2014, effective January 1, 2015]

1.500(2) Disclosure of expert testimony.

a. In general. In addition to the disclosures required by rule 1.500(1), a party must disclose to the other parties the identity of any witness the party may use at trial to present evidence under Iowa Rules of Evidence 5.702, 5.703, and 5.705.

b. Witnesses who must provide a written report. Unless otherwise stipulated or ordered by the court, this disclosure must be accompanied by a written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report must contain the following:

- (1) A complete statement of all opinions the witness will express and the basis and reasons for them.
- (2) The facts or data considered by the witness in forming the opinions.
- (3) Any exhibits that will be used to summarize or support the opinions.
- (4) The witness's qualifications, including a list of all publications authored in the previous ten years.
- (5) A list of all other cases in which, during the previous four years, the witness testified as an expert at trial or by deposition.
- (6) A statement of the compensation to be paid for the study and testimony in the case.

c. Witnesses who do not provide a written report. Unless otherwise stipulated or ordered by the court, if the witness is not required to provide a written report, this disclosure must state:

- (1) The subject matter on which the witness is expected to present evidence under Iowa Rules of Evidence 5.702, 5.703, or 5.705.
- (2) A summary of the facts and opinions to which the witness is expected to testify.

d. Time to disclose expert testimony. A party must make these disclosures at the times and in the sequence set forth in the court's trial scheduling order. If not otherwise ordered, expert disclosures shall be due:

- (1) No later than 90 days before the date set for trial; or
- (2) Within 30 days after the other party's disclosures if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under rule 1.500(2)(b) or (c).

e. Supplementing disclosures. The parties must supplement these disclosures when required under rule 1.508(3).

COMMENT:

Rule 1.500(2)(d). The rule contemplates that in many, if not most, cases, scheduling of disclosure of expert testimony will be governed by a trial scheduling order. *See* Iowa R. Civ. P. 1.907; Iowa Ct. R. 23.5—Form 2: Trial Scheduling and Discovery Plan.

[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015]

1.500(3) Pretrial disclosures.

a. In general. In addition to the disclosures required by rules 1.500(1) and 1.500(2), a party must provide to the other parties and promptly file the following information about the evidence the party may present at trial other than evidence to be used solely for impeachment:

(1) The name and, if not previously provided, the address, telephone numbers, and electronic mail address of each witness, separately identifying the witnesses the party expects to present and those the party may call if the need arises.

(2) The page and line designation of those witnesses whose testimony the party expects to present by deposition and, if not taken stenographically, a transcript of the pertinent parts of the deposition.

(3) An identification of each document or other exhibit, including summaries of other evidence, separately identifying those items the party expects to offer and those it may offer if the need arises.

b. Time for pretrial disclosures; objections. Pretrial disclosures must be made at least 14 days before trial. This deadline may be modified by order of the court or stipulation of the parties, provided, however, that the parties may not stipulate to a pretrial disclosure deadline of less than 7 days before trial. A party may serve and promptly file a list of the following objections: any objections to the

use under rule 1.704 of a deposition designated by another party under rule 1.500(3)(a)(2), and any objection, together with the grounds for it, that may be made to the admissibility of materials identified under rule 1.500(3)(a)(3). Objections must be served and filed within 7 days of the pretrial disclosures, or within 4 days if the pretrial disclosure deadline is less than 10 days before trial, unless the court directs otherwise. An objection not so made, except for one under Iowa Rule of Evidence 5.402 or 5.403, is waived unless excused by the court for good cause.

c. Duty to supplement unaffected. Rule 1.500(3) does not affect the obligation of a party to timely supplement disclosures and discovery responses as required by rule 1.503(4)(a)(2).

COMMENT:

Rules 1.500(3)(a) and 1.500(3)(b). Rules 1.500(3)(a) and (b) mirror Federal Rule of Civil Procedure 26(a)(3). The duty to disclose final trial witnesses, deposition testimony, and exhibits is governed by the Time Standards for Case Processing in rule 23.5 of the Iowa Court Rules. Rule 23.5 is mandatory and applies to all civil actions. This rule incorporates into the Iowa Rules of Civil Procedure the duty to make pretrial disclosures. Iowa Court Rule 23.5—Form 2: Trial Scheduling and Discovery Plan, implements these and other scheduling deadlines.

[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015]

Rule 1.500(3)(b). The federal rules require that pretrial disclosures occur at least 30 days before trial and that objections occur within 14 days thereafter. Former rule 23.5—Form 2 of the Iowa Court Rules imposed a later deadline, requiring disclosure of all witness and exhibit lists at least 7 days before trial, with objections due within 5 days thereafter (2 days before trial). Requiring pretrial disclosures 30 days before trial could result in unnecessary time and effort. The former 7-day deadline, however, may have been in some circumstances too close to trial. Rule 1.500(3)(b) requires parties to make pretrial disclosures two weeks in advance of trial, unless they stipulate to a different deadline, which cannot be less than one week before trial. The rule also gives opposing parties one week thereafter to respond, unless the disclosure deadline was less than 10 days before trial. Iowa Court Rule 23.5—Form 2: Trial Scheduling and Discovery Plan reflects these changes.

[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015]

1.500(4) Form of disclosures. Unless the court orders otherwise, all disclosures under rule 1.500 must be in writing, signed, and served.

1.500(5) Supplementing the disclosures. The parties must supplement these disclosures when required under rules 1.503(4) and 1.508(3).

1.500(6) Effective date. Rule 1.500 applies only to actions commenced on or after January 1, 2015, provided that the court may in any case direct the parties to comply with all or part of the rule as part of a pretrial order.

[Court Order August 28, 2014, October 30, 2014, effective January 1, 2015; Court Order April 1, 2015, temporarily effective April 1, 2015, permanently effective June 1, 2015]

Rule 1.501 Discovery methods.

1.501(1) In addition to the disclosures required by rule 1.500, and subject to the timing provisions of rule 1.505, 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.

1.501(2) The rules providing for discovery and inspection should be liberally construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding and to provide the parties with access to all relevant facts.

1.501(3) Discovery must be conducted in good faith, and responses to discovery requests, however made, must fairly address and meet the substance of the request. Any discovery motion presented to the court must include a certification that the movant has in good faith personally spoken with or attempted to speak with other affected parties in an effort to resolve the dispute without court action. The certification must identify the date and time of any conference or attempts to confer.

COMMENT:

Rule 1.501(3). The rule makes the certification of conference requirement apply to all discovery motions. A similar provision is contained in rule 1.504(3) governing motions for protective order and in rule 1.517(5) governing sanctions and motions to compel. Telephonic conferences satisfy the conference requirement of these rules.

[Court Order August 28, 2014, effective January 1, 2015]

1.501(4) 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

[Report 1943; amendment 1957; amendment 1967; amendment 1973; February 13, 1986, effective July 1, 1986; May 28, 1987, effective August 3, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

Rule 1.502 Discovery materials not filed. Unless otherwise ordered by the court, no deposition, notice of deposition, interrogatory, request for production of documents, request for admission, or response, document or thing produced, or objection thereto shall be filed with the clerk. Any motion under rule 1.517 attacking the sufficiency of a response to a discovery request must have a copy of the request and response attached or the motion may be denied. This rule does not apply to depositions to perpetuate testimony under rules 1.721 through 1.728.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.503 Scope of discovery. Unless otherwise limited by order of the court in accordance with the rules in this chapter, the scope of discovery shall be as provided in this division.

1.503(1) In general. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, the identity and location of persons having knowledge of any discoverable matter, and the identity of witnesses the party expects to call to testify at the trial. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

a. Unless otherwise provided in a request for discovery, a request for the production of a “document” or “documents” shall encompass electronically stored information. Any reference in the rules in this division to a “document” or “documents” shall encompass electronically stored information.

b. All discovery is subject to the limitations of rule 1.503(8).

1.503(2) Insurance agreements. In addition to the initial disclosures required by rule 1.500(1)(a)(4), a party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this rule, an application for insurance shall not be treated as part of an insurance agreement.

COMMENT:

Rule 1.503(2). Notwithstanding the initial disclosure obligation in rule 1.500(1)(a)(4), rule 1.503(2) clarifies that additional discovery regarding insurance is still allowed, but the fruits of that discovery will not necessarily be admissible.
[Court Order August 28, 2014, effective January 1, 2015]

1.503(3) Trial-preparation materials. Subject to the provisions of rule 1.508, a party may obtain discovery of documents and tangible things otherwise discoverable under rule 1.503(1) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party’s representative (including the party’s attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the case and that the party seeking discovery is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of rule 1.517(1)(d) apply to the award of expenses incurred in relation to the motion. For purposes of this rule, a statement previously made is any of the following:

a. A written statement signed or otherwise adopted or approved by the person making it.

b. A stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

1.503(4) *Supplementing disclosures and responses.* A party who has made a disclosure under rule 1.500, or who has responded to a request for discovery, must timely supplement or correct the party's disclosure or response as follows:

a. A party must timely supplement or correct any disclosure or response that concerns any of the following:

- (1) The identity and location of persons having knowledge of discoverable matters.
- (2) The identity of each person expected to be called as a witness at trial.
- (3) Any matter that bears materially upon a claim or defense asserted by any party to the action.

b. A party is under a duty seasonably to supplement or correct its disclosure or a prior response if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

c. As provided in rule 1.508(3), a party must supplement discovery as to experts and the substance of their testimony.

d. An additional 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 to supplement prior responses.

COMMENT:

Rule 1.503(4)(b). The amendment eliminates the "knowing concealment" requirement that had triggered the duty to supplement incorrect discovery responses. Rule 1.503(4)(b) now tracks the federal rule by requiring supplementation of any response that the answering party learns is materially incomplete or incorrect unless that information has already otherwise been disclosed in discovery. *See* Fed. R. Civ. P. 26(e)(1)(A).

[Court Order August 28, 2014, effective January 1, 2015]

1.503(5) *Claims of privilege or protection of trial-preparation materials.*

a. *Information withheld.* When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial-preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

b. *Information produced.* If information is produced in discovery that is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party that received that information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The producing party must preserve the information until the claim is resolved.

1.503(6) *Signing disclosures and discovery requests, responses, and objections.*

a. *Signature required; effect of signature.* Every disclosure under rule 1.500 and every discovery request, response, or objection must be signed by at least one attorney of record in the attorney's own name—or by the party personally, if unrepresented—and must state the signer's name, law firm, or name of partnership, association, corporation, or tribe on behalf of which the filing agent is signing, and mailing address, telephone number, and electronic mail address. By signing, an attorney or party certifies that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry:

(1) The disclosure is complete and correct as of the time it is made.

(2) The discovery request, response, or objection is:

1. Consistent with these rules and warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law, or for establishing new law.

2. Not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

3. Neither unreasonable or unduly burdensome or expensive, considering the needs of the case, prior discovery in the case, the amount in controversy, and the importance of the issues at stake in the action.

b. *Failure to sign.* Other parties have no duty to act on an unsigned disclosure, request, response, or objection until it is signed, and the court must strike it unless a signature is promptly supplied after the omission is called to the attorney's or party's attention.

c. Sanction for improper certification. If a certification violates this rule without substantial justification, the court, on motion or on its own, shall impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney fees, caused by the violation.

COMMENT:

Rule 1.503(6). The rule is patterned on Federal Rule of Civil Procedure 26(g). Having a separate certification requirement tailored specifically to discovery more effectively deters discovery abuse. *See* rule 1.413(1) (providing that its certification obligation does not apply to discovery).

[Court Order August 28, 2014, effective January 1, 2015]

1.503(7) *Reliance on disclosures and discovery responses of other parties.* Any party may rely on any other party's disclosures or discovery responses to the extent permitted by otherwise applicable evidentiary rules and regardless of when that party is joined. Unless requested to do so by a current party, the responding party has no duty to supplement its responses to discovery requests after the propounding party has been dismissed from the case.

1.503(8) *Limitations on frequency and extent.* On motion or on its own, the court shall limit the frequency or extent of discovery otherwise allowed by these rules if it determines that:

a. The discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

b. The party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

c. The burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

[Report 1943; amendment 1973; amended by 65GA, ch 315, §3; amendment 1980; Report February 13, 1986, effective July 1, 1986; May 28, 1987, effective August 3, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 28, 2014, effective January 1, 2015]

COMMENT: Rule 1.503(4) states the duty to supplement in the affirmative and expands that duty to require supplementation as to material matters and as to experts.

Rule 1.504 Protective orders.

1.504(1) Upon motion by a party or by the person from whom discovery is sought or by any person who may be affected thereby, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court in the district where the deposition is to be taken:

a. May make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had.

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place, or the allocation of expenses.

(3) That the discovery may be had only by a method of discovery other than that selected by the party seeking discovery.

(4) That certain matters not be inquired into, or that the scope of the discovery be limited to certain matters.

(5) That discovery be conducted with no one present except persons designated by the court.

(6) That a deposition after being sealed be opened only by order of the court.

(7) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.

(8) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

b. On motion or on its own, shall limit the frequency and extent of use of the methods described in rule 1.501(1) in accordance with the limitations of rule 1.503(8).

COMMENT:

Rule 1.504(1). Rather than repeating the proportionality limitations contained in the scope of discovery, rule 1.504(1) cross-references proportionality. Additionally, in recognition of the court's independent obligation to ensure the proportionality of discovery, rule 1.504(2) expressly authorizes the court to limit sua sponte the frequency and extent of discovery.

[Court Order August 28, 2014, effective January 1, 2015]

1.504(2) A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show

that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of rule 1.503(8). The court may specify conditions for the discovery.

1.504(3) A motion for protective order must include a certification that the movant has in good faith personally spoken with or attempted to speak with other affected parties in an effort to resolve the dispute without court action. The certification must identify the date and time of any conference or attempts to confer. If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of rule 1.517(1)(d) apply to the award of expenses incurred in relation to the motion. [Report 1943; amendment 1965; amendment 1970; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 28, 2014, effective January 1, 2015]

Rule 1.505 Timing and sequence of discovery.

1.505(1) *Timing.*

a. A party may not seek discovery from any source before the parties have conferred as required by rule 1.507, except in a proceeding exempt from initial disclosure under rule 1.500(1)(e), or when authorized by these rules, by stipulation, or by court order.

b. The discovery moratorium of rule 1.505(1) applies only to actions commenced on or after January 1, 2015, provided that the court may in any case direct the parties to comply with all or part of the rule as part of a pretrial order.

1.505(2) *Sequence.* Unless the court upon motion orders otherwise for the convenience of parties and witnesses and in the interests of justice, or the parties stipulate, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

[Report 1943; amendment 1957; amendment 1973; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

Rule 1.506 Stipulations regarding discovery procedure. Unless the court orders otherwise, the parties may by written stipulation do the following:

1.506(1) Provide that depositions may be taken before any qualified person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

1.506(2) Modify the procedures provided by these rules for other methods of discovery.

[Report 1975; amended by 66GA, ch 259, §1; amendment 1976; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

COMMENT: As parties rarely enter into formal stipulations extending the times to answer interrogatories or respond to production requests, the requirement for formal stipulations is removed. Formal stipulations remain required for extensions of time for responding to requests for admissions. The final phrase of the rule clarifies the time within which a response is required in the event the court supersedes a stipulation. Consistent with rule 1.502, the requirement that discovery stipulations be filed, including those regarding responses to requests for admissions, is deleted.

Rule 1.507 Discovery conference of the parties.

1.507(1) *Conference timing.* Except in a proceeding exempt from initial disclosure under rule 1.500(1)(e), a domestic relations proceeding, or when the court orders otherwise, the parties must confer as soon as practicable, but no later than 21 days after any defendant has answered or appeared. The plaintiff must notify all parties of the discovery conference deadline. Except as otherwise stipulated or ordered by the court, the filing of a pre-answer motion under rule 1.421 does not affect the obligation to participate in the discovery conference or to make disclosures required by rule 1.500(1).

1.507(2) *Conference content; parties' responsibilities.* In conferring, parties must consider the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case; make or arrange for the disclosures required by rule 1.500(1); discuss any issues about preserving discoverable information; and develop a proposed discovery plan. The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference, for attempting in good faith to agree on the proposed discovery plan, and for submitting to the court within seven days after the conference a written report outlining the plan. The court may order the parties or attorneys to attend the conference in person. The discovery plan must be submitted in all events prior to the trial-setting conference.

1.507(3) *Discovery plan.* The discovery plan will be included in Iowa Court Rule 23.5—Form 2: Trial Scheduling and Discovery Plan, and except as otherwise ordered by the court, a discovery plan must state the parties' views and proposals on the following:

- a. Changes that should be made in the timing, form, or requirement for disclosures under rule 1.501(1), including a statement of when initial disclosures were made or will be made.
- b. Subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues.
- c. Issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which the information should be produced.
- d. Issues about claims of privilege or of protection as trial preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include the parties' agreement in an order under Iowa Rule of Evidence 5.502.
- e. Changes that should be made to the limitations on discovery imposed under these rules, and other limitations that should be imposed.
- f. Any other orders that the court should issue under rule 1.504 or under rule 1.602.

1.507(4) *Pretrial conference.* Following the parties' discovery conference, any party may request the court to convene a pretrial conference under rule 1.602 to resolve any objection or disputed issue identified in the parties' discovery plan.

COMMENT:

Rule 1.507. The rule is substantially rewritten to provide that parties, including pro se litigants, have a duty to confer early in a case and cooperate in framing a discovery plan to submit to the court. The rule is patterned on the federal attorney conference rule, Federal Rule of Civil Procedure 26(f). Rule 1.507 envisions that the discovery conference will occur before the rule 1.906 trial-setting conference. The parties must submit the discovery plan within 7 days after the discovery conference, and initial disclosures are due within 14 days after the discovery conference.

[Court Order August 28 2014, October 30, 2014, effective January 1, 2015]

[Report May 28, 1987, effective August 3, 1987; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 28, 2014, October 30, 2014, effective January 1, 2015; Court Order April 1, 2015, temporarily effective April 1, 2015, permanently effective June 1, 2015]

Rule 1.508 Discovery of experts.

1.508(1) *Expert who is expected to be called as a witness.* In addition to the disclosures and discovery provided pursuant to rules 1.500(2) and 1.516, 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 rule 1.503(1) and acquired or developed in anticipation of litigation or for trial, may be obtained as follows:

a. *Deposition of an expert who may testify.* A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If rule 1.500(2)(b) requires a report from the expert, the deposition may be conducted only after the report is provided.

b. *Discovery by other means.* Subject to rules 1.508(1)(d) and (e), 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. *Tangible form.* Subject to rules 1.508(1)(d) and (e), 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.

d. *Trial preparation protection for draft reports or interrogatory answers.* Rule 1.503(3) protects drafts of any report or disclosure required under rule 1.500(2), regardless of the form in which the draft is recorded.

e. *Trial preparation protection for communications between a party's attorney and expert witnesses.* Rule 1.503(3) protects communications between the party's attorney and any witness required to provide a report under rule 1.500(2)(b), regardless of the form of the communications, except to the extent that the communications:

- (1) Relate to compensation for the expert's study or testimony.
- (2) Identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed.

(3) Identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

1.508(2) *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 rule 1.516 or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

1.508(3) *Duty to supplement discovery as to experts.* For an expert whose report must be disclosed under rule 1.500(2)(b), the party's duty to supplement extends both to information included in the report and to information given during the expert's deposition. Any additions or changes to this information must be disclosed no later than 30 days before trial. Failure to disclose or supplement the identity of an expert witness or the information described in rule 1.500(2) is subject to sanctions under rule 1.517(3)(a).

1.508(4) *Expert testimony at trial.* The expert's direct testimony at trial may not be inconsistent with or go beyond the fair scope of the expert's disclosures, report, deposition testimony, or supplement thereto.

1.508(5) *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 rules 1.508(1) and 1.508(2). With respect to discovery obtained under rule 1.508(1), the court may require, and with respect to discovery obtained under rule 1.508(2), 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.

1.508(6) *Effective date.* Rules 1.508(1)(a), 1.508(d), 1.508(1)(e), and 1.508(3) apply only to actions commenced on or after January 1, 2015, provided that the court may in any case direct the parties to comply with all or part of the rules as part of a pretrial order.

[Report 1943; amendment 1957; amendment 1973; Report May 28, 1987, effective August 3, 1987; June 23, 1988, effective September 1, 1988; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

Rule 1.509 Interrogatories to parties.

1.509(1) *Availability; procedures for use.*

a. Except in small claims, any party may serve written interrogatories to be answered by another party or, if the other party is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party.

b. Each interrogatory, unless the court has ordered otherwise, must be provided in an electronic word processing format. An interrogatory that does not comply with this requirement shall be subject to objection.

c. Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath. The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure. A party may answer an interrogatory in whole or in part subject to an objection without waiving that objection. Any answer so provided is subject to the duty to supplement set forth in rule 1.503(4), but the party does not waive the objection by supplementing. Where an answer is provided subject to an objection, the answering party must specify the extent to which the requested information has not been provided.

d. A party answering interrogatories must set out each interrogatory immediately preceding the answer to it. A failure to comply with this rule shall be deemed a failure to answer and shall be subject to sanctions as provided in rule 1.517. Answers are to be signed by the person making them. Answers shall not be filed; however, they shall be served upon all adverse parties within 30 days after

the interrogatories are served. Objections, if any, must be signed by the attorney who objects and must be served within 30 days after the interrogatories are served. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under rule 1.517(1) with respect to any objection to or other failure to answer an interrogatory.

e. Except as provided in rule 1.509(4), or unless otherwise stipulated or ordered by the court for good cause shown, a party must not serve on any other party more than 30 interrogatories, including all discrete subparts. Any discrete subpart to a nonpattern interrogatory will be considered a separate interrogatory. A motion for leave of court to serve more than 30 interrogatories must be in writing and shall set forth the proposed interrogatories and the reasons establishing good cause for their use.

COMMENT:

Rule 1.509(1)(c). The rule mirrors Federal Rule of Civil Procedure 33(b)(3) and (4) in requiring that objections to interrogatories be specific and providing that any ground not raised in a timely objection is waived. The rule further allows a party to respond to an interrogatory subject to an objection without waiving that objection. In such cases, however, the responding party must clearly indicate whether any responsive information is being withheld subject to the objection.

[Court Order August 28, 2014, effective January 1, 2015]

1.509(2) Scope; use at trial.

a. Interrogatories may relate to any matters which can be inquired into under rule 1.503, including a statement of the specific dollar amount of money damages claimed, the amounts claimed for separate items of damage, and the names and addresses of witnesses the party expects to call to testify at the trial. Interrogatory answers may be used to the extent permitted by the rules of evidence.

b. An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time.

1.509(3) Option to produce business records. Where the answer to an interrogatory may be derived or ascertained from the business records, including electronically stored information, of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. A specification shall be in sufficient detail to permit the party serving the interrogatory to locate and identify as readily as can the party served, the records from which the answer may be ascertained.

1.509(4) Pattern interrogatories. The supreme court, by supervisory order or otherwise, may approve pattern interrogatories for different classes of cases. Any pattern interrogatory and its subparts are counted as one interrogatory.

COMMENT:

Rule 1.509(4). Parties are encouraged to use supreme court-approved pattern discovery when appropriate. A party may use one or more pattern interrogatories that are part of an approved set of pattern interrogatories. Any approved pattern interrogatory is counted as one interrogatory in determining the total number of permissible interrogatories, regardless of the number of subparts or multiple inquiries within the interrogatory. In contrast, each discrete subpart of a nonpattern interrogatory will count as a separate interrogatory. A party may combine pattern interrogatories with other interrogatories, subject to applicable limitations as to number. A party should not serve pattern interrogatories that have no application to the case.

[Court Order August 28, 2014, effective January 1, 2015]

[Report 1943; amendment 1957; amendment 1973; amendment 1975; amendment 1976; amendment 1980; amendment 1983; amendment 1984; Report April 30, 1987, effective July 1, 1987; November 30, 1993, effective March 1, 1994; September 23, 1994, effective January 3, 1995; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 17, 2006, effective May 1, 2006; February 14, 2008, effective May 1, 2008; August 28, 2014, effective January 1, 2015]

COMMENT: The requirement to file answers or objections, absent court order, is eliminated. Notices of serving interrogatories are abolished. Rule 1.509(2) adds to the permissible scope of interrogatories the amounts claimed for items of damages approved by the court in *Gordon v. Noel*, 356 N.W. 2d 559 (Iowa 1984), and the addresses of trial witnesses.

Rule 1.510 Requests for admission.

1.510(1) Availability; procedures for requests. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of rule 1.503 set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise

furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the original notice upon that party.

Each matter of which an admission is requested shall be separately set forth.

A party shall not serve more than 30 requests for admission on any other party except upon agreement of the parties or leave of court granted upon a showing of good cause. A motion for leave of court to serve more than 30 requests for admission must be in writing and shall set forth the proposed requests and the reasons establishing good cause for their use.

1.510(2) *Time for and content of responses.* The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may on motion allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 60 days after service of the original notice upon defendant.

If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify the party's answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party may, subject to the provisions of rule 1.517(3) deny the matter or set forth reasons why the party cannot admit or deny it.

1.510(3) *Determining sufficiency of responses.* The party who has requested the admission may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of rule 1.517(1)(d) apply to the award of expenses incurred in relation to the motion.

[Report 1943; amendment 1957; amendment 1973; amendment 1984; February 13, 1986, effective July 1, 1986; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.511 Effect of admission. Any matter admitted under rule 1.510 is conclusively established in the pending action unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of rule 1.604 governing amendment of a pretrial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice that party in maintaining that party's action or defense on the merits. Any admission made by a party under rule 1.510 may be used only as an evidentiary admission in any other proceeding.

[Report 1943; amendment 1957; amendment 1973; February 13, 1986, effective July 1, 1986; November 9, 2001, effective February 15, 2002; July 11, 2002, effective October 1, 2002]

Rule 1.512 Production of documents, electronically stored information, and things; entry upon land for inspection and other purposes.

1.512(1) *Requests.* Any party may serve on any other party a request:

a. To produce and permit the party making the request, or someone acting on that party's behalf, to inspect, copy, test, or sample any designated documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained—translated, if necessary, by the respondent into a reasonably usable form.

b. To inspect, copy, test, or sample any designated tangible things which constitute or contain matters within the scope of rule 1.503 and which are in the possession, custody or control of the party upon whom the request is served.

c. To permit, except as otherwise provided by statute, entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection

and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of rule 1.503.

1.512(2) Procedure.

a. Making requests. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The request may specify the form in which electronically stored information is to be produced.

b. Responses and objections.

(1) The party upon whom the request is served shall serve a written response within 30 days after the service of the request. The court may allow a shorter or longer time.

(2) For each item or category, the response must state that inspection and related activities will be permitted as requested or state the grounds for objecting to the request with specificity, including reasons. If the responding party states that the party will produce copies of documents or of electronically stored information instead of permitting inspection, the production must be completed no later than the time for inspection stated in the request or a later reasonable time stated in the response.

(3) Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure. A party may respond to a request in whole or in part subject to an objection without waiving that objection. Any response so provided is subject to the duty to supplement set forth in rule 1.503(4), but the party does not waive the objection by supplementing.

(4) An objection must state whether any responsive materials are being withheld on the basis of the objection. An objection to part of a request must specify the part and permit inspection of the rest. When a response is provided subject to an objection, the responding party must specify the extent to which the requested information has not been provided.

(5) The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form for producing electronically stored information, or if no form was specified in the request, the responding party must state the form or forms it intends to use.

c. Motion to compel. The party submitting the request may move for an order under rule 1.517 with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

d. Production. Unless the parties otherwise agree, or the court otherwise orders:

(1) A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(2) If a request does not specify the form for producing electronically stored information, the responding party must produce the information in a form in which it is ordinarily maintained or in a form that is reasonably usable.

(3) A party need not produce the same electronically stored information in more than one form.

1.512(3) Pattern requests. The supreme court, by supervisory order or otherwise, may approve pattern requests for production for different classes of cases.

[Report 1943; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 28, 2014, effective January 1, 2015]

Rule 1.513 Reserved.

Rule 1.514 Action for production or entry against persons not parties. Rule 1.512 does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land.

[Report 1943; amendment 1957; amendment 1973; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008]

Rule 1.515 Physical and mental examination of persons. When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a health care practitioner or to produce for examination the person in the party's custody or legal control. The order may be made only on motion for good cause shown and

upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

[Report 1943; amendment 1957; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

COMMENT: Rule 1.515 expands the category of those who can conduct a court-ordered physical or mental examination from only physicians to all health care practitioners.

Rule 1.516 Report of health care practitioner.

1.516(1) If requested by the party against whom an order is made under rule 1.515 or the person examined, the party causing the examination shall deliver a copy of the examiner's detailed written report setting out the findings, including results of all tests made, diagnosis and conclusions, together with like reports of all earlier examinations of the same condition. After delivery, if requested by the party causing the examination, the party against whom the order is made shall deliver a like report of any examination of the same condition, previously or thereafter made, unless the party shows an inability to obtain a report of examination of a nonparty. The court on motion may order a party to deliver a report on such terms as are just. If an examiner fails or refuses to make a report the court may exclude the examiner's testimony if offered at the trial.

1.516(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege the party may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the party in respect of the same mental or physical condition.

1.516(3) This rule applies to examination made by agreement of the parties, unless the agreement expressly provides otherwise. This rule does not preclude discovery of a report of an examiner or the taking of a deposition of the examiner in accordance with the provisions of any other rule or statute. [Report 1943; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.517 Consequences of failure to make disclosures or discovery.

1.517(1) *Motion for order compelling disclosures or discovery.* A party, upon reasonable notice to other parties and all persons affected thereby, may move for an order compelling disclosure or discovery as follows:

a. Appropriate court. A motion for an order to a party may be made to the court in which the action is pending, or, on matters relating to a deposition, to the court in the district where the deposition is being taken. A motion for an order to a deponent who is not a party shall be made to the court in the district where the deposition is being taken.

b. Specific motions.

(1) *To compel disclosure.* If a party fails to make a disclosure required by rule 1.500, any other party may move to compel disclosure and for appropriate sanctions.

(2) *To compel a discovery response.* If a deponent fails to answer a question propounded or submitted under rule 1.701 or 1.710, or a corporation or other entity fails to make a designation under rule 1.707(5), or a party fails to answer an interrogatory submitted under rule 1.509, or if a party, in response to a request for inspection submitted under rule 1.512, fails to produce documents, or fails to respond that inspection will be permitted, or fails to permit inspection, the party seeking discovery may move for an order compelling an answer, a designation, or an inspection in accordance with the request.

(3) *Related to a deposition.* When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before moving for an order.

(4) *Default; notice; protective orders.* If a motion to compel is filed and the time for resistance of that motion has expired without a resistance having been filed, the court may grant the motion without a hearing.

(5) *Sanctions.* Any order granting a motion made under this rule shall include a statement that a failure to comply with the order may result in the imposition of sanctions pursuant to rule 1.517.

(6) *Protective order.* In ruling on such motion, the court may make such protective order as it would have been empowered to make on a motion pursuant to rule 1.504(1).

c. Evasive or incomplete answer. For purposes of this rule an evasive or incomplete answer is to be treated as a failure to answer.

d. Award of expenses of motion.

(1) If the motion is granted, or if the disclosure or requested discovery is provided after the motion was filed, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

(2) If the motion is denied, the court shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

(3) If the motion is granted in part and denied in part, the court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

e. Notice to litigants. If the motion is granted, the court shall direct the clerk to serve a copy of the order to counsel and to the party or parties whose conduct, individually or by counsel, necessitated the motion.

1.517(2) Failure to comply with order.

a. Sanctions by court in district where deposition is taken. If a deponent fails to be sworn or to answer a question after being directed to do so by the court in the district in which the deposition is being taken, the failure may be considered a contempt of that court.

b. Sanctions by court in which action is pending. If a party or an officer, director, or managing agent of a party or a person designated under rule 1.707(5) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under rule 1.515 or rule 1.517(1), the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(1) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting such party from introducing designated matters in evidence.

(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

(4) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination.

(5) In lieu of any of the foregoing orders or in addition thereto, the court shall require the disobedient party or the attorney advising such party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

1.517(3) Failure to disclose, to supplement an earlier response, or to admit.

a. Failure to disclose or supplement. If a party fails to provide information or identify a witness as required by rule 1.500, 1.503(4), or 1.508(3), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the court, on motion or after giving an opportunity to be heard:

(1) May order payment of the reasonable expenses, including attorney's fees, caused by the failure.

(2) May inform the jury of the party's failure.

(3) May impose other appropriate sanctions, including any of the orders listed in rule 1.517(2)(b).

b. Expenses on failure to admit. If a party fails to admit the genuineness of any document or the truth of any matter as requested under rule 1.510, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may move for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make the order unless it finds any of the following:

(1) The request was held objectionable pursuant to rule 1.510.

(2) The admission sought was of no substantial importance.

(3) The party failing to admit had reasonable grounds to believe that the party might prevail on the matter.

(4) There was other good reason for the failure to admit.

1.517(4) *Failure of party to attend at own deposition or serve answers to interrogatories or respond to request for inspection.* If a party or an officer, director, or managing agent of a party or a person designated under rule 1.707(5) to testify on behalf of a party fails:

a. To appear before the officer who is to take the person's deposition, after being served with a proper notice; or

b. To serve answers or objections to interrogatories submitted under rule 1.509, after proper service of the interrogatories; or

c. To serve a written response to a request for inspection submitted under rule 1.512, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under rule 1.517(2)(b)(1), (2), (3), and (5).

d. The failure to act described in rule 1.517(4) may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by rule 1.504.

1.517(5) *Motions relating to discovery.* No motion relating to depositions, discovery, or discovery sanctions may be filed with the clerk or considered by the court unless the motion alleges that the movant has in good faith personally spoken with or attempted to speak with other affected parties in an effort to resolve the dispute without court action. The certification must identify the date and time of any conference or attempts to confer.

1.517(6) *Electronically stored information.* Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.

1.517(7) *Failure to participate in framing a discovery plan.* If a party or its attorney fails to participate in good faith in developing and submitting a proposed discovery plan as required by rule 1.507, the court may, after giving an opportunity to be heard, require that party or attorney to pay to any other party the reasonable expenses, including attorney fees, that the failure causes.

[Report 1943; amendment 1957; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 28, 2014, effective January 1, 2015]

COMMENT: Rule 1.517(1)(b) requires that any order granting a motion to compel discovery shall warn of the possibility of sanctions, and rule 1.517(1)(e) requires that such an order shall be mailed by the clerk to both the attorney and client.

Rules 1.518 to 1.600 Reserved.

DIVISION VI PRETRIAL PROCEDURE

Rule 1.601 Pretrial calendar. The court may provide for a pretrial calendar in any county, which may extend to all actions, or be limited either to jury or nonjury actions.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.602 Pretrial conferences; scheduling; management.

1.602(1) *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:

a. Expediting the disposition of the action.

b. Establishing early and continuing control so that the case will not be protracted because of lack of management.

c. Discouraging wasteful pretrial activities.

d. Improving the quality of the trial through more thorough preparation.

e. Facilitating the settlement of the case.

1.602(2) *Scheduling and planning.*

a. 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 all of the following:

- (1) Joining other parties.
- (2) Designating experts.
- (3) Completing discovery.
- (4) Amending the pleadings.
- (5) Filing and hearing motions.

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

(1) 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.

(2) Provisions for discovery of electronically stored information.

(3) Any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation materials after production.

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

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

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

1.602(3) *Subjects to be discussed at pretrial conferences.* The court at any conference under this rule may consider and take action with respect to the following:

a. The formulation and simplification of the issues, including the elimination of frivolous claims or defenses.

b. The necessity or desirability of amendments to the pleadings.

c. 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.

d. The avoidance of unnecessary proof including limitation of the number of expert witnesses and of cumulative evidence.

e. 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.

f. The advisability of referring matters to a master.

g. The possibility of settlement and imposition of a settlement deadline or the use of extrajudicial procedures to resolve the dispute.

h. The substance of the pretrial order.

i. The disposition of pending motions.

j. Settling any facts of which the court is to be asked to take judicial notice.

k. Specifying all damage claims in detail as of the date of conference.

l. All proposed exhibits and mortality tables and proof thereof.

m. Consolidation, separation for trial, and determination of points of law.

n. Questions relating to voir dire examination of jurors.

o. Filing of advance briefs when required.

p. 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.

1.602(4) *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.

1.602(5) *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 rule 1.517(2)(b)(2) - (4). 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.
[Report 1943; amendment 1961; amendment 1979; amendment 1982; amendment 1983; Report June 16, 1987, effective September 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008]

Rule 1.603 Pretrial conference; record. On the request of any interested counsel or the court, the reporter must record the entire conference, or any designated part thereof.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.604 Pretrial orders. After any conference held pursuant to rule 1.602, 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 rule 1.1901, form 6, and shall be modified only to prevent manifest injustice.

[Report 1943; amendment 1957; Report May 28, 1987, effective August 3, 1987; November 9, 2001, effective February 15, 2002]

Rules 1.605 to 1.700 Reserved.

DIVISION VII DEPOSITIONS AND PERPETUATING TESTIMONY

A. DEPOSITIONS

Rule 1.701 Depositions upon oral examination.

1.701(1) *When depositions may be taken.*

a. Without leave. Any party may, by deposition upon oral examination, take the testimony of any person, including a party, without leave of court except as provided in rule 1.701(b). The attendance of witnesses may be compelled by subpoena as provided in rule 1.715.

b. With leave. Leave of court, granted with or without notice, must be obtained if:

(1) The parties have not stipulated to the deposition and the party seeks to take the deposition before the time specified in rule 1.505(1), unless special notice is given as provided in rule 1.701(2); or

(2) The parties have not stipulated to the deposition and the deponent has already been deposed in the case; or

(3) The deponent is confined in prison.

1.701(2) *Special notice for taking of deposition by plaintiff.* Leave of court is not required for the taking of a deposition by plaintiff if the notice, in addition to those things required by rule 1.707(1), does the following:

a. States that the person to be examined is about to go out of the state and will be unavailable for examination unless the person's deposition is taken before the expiration of ten days after the date for motion or answer for any defendant.

b. Sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and the attorney's signature constitutes a certification by the attorney that to the best of the attorney's knowledge, information, and belief the statement and supporting facts are true.

If a party shows that upon being served with notice under this rule, the party was unable through the exercise of diligence to obtain counsel to represent the party at the taking of the deposition, the deposition may not be used against that party.

1.701(3) *Enlarging and shortening time.* The court may for cause shown enlarge or shorten the time for taking the deposition.

1.701(4) *Recording.* The court may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order shall designate the manner of recording, preserving, and filing the deposition, and may include other provisions to ensure that the recorded testimony will be accurate and trustworthy. If the order is made, a party may nevertheless arrange to have a stenographic transcription made at the party's own expense. Leave of court is not required to record testimony by nonstenographic means if the deposition is also to be recorded stenographically.

1.701(5) *Place of deposition.*

a. Oral depositions may be taken only within this state or within 100 miles from the nearest Iowa point. But, upon motion of the party desiring the deposition, and after hearing on notice to the other parties, the court may order it orally taken at any other specified place, if the issue is sufficiently important and the testimony cannot reasonably be obtained by written interrogatories or by deposition by telephone.

b. If the deponent is a party or the officer, partner or managing agent of a party which is not a natural person, the deponent shall be required to submit to examination in the county where the action is pending, unless otherwise ordered by the court.

1.701(6) *Failure to attend or serve subpoena; expenses.*

a. If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by the other party and the other party's attorney in attending, including reasonable attorney's fees.

b. If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness does not attend because of such failure, and if another party attends in person or by attorney because such other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by the other party and the other party's attorney in attending, including reasonable attorney's fees.

1.701(7) *Depositions by telephone.* Any deposition permitted by the rules in this chapter may be taken by telephonic means.

A party desiring to take the deposition of any person upon oral examination by telephonic means shall give reasonable notice thereof in writing to every other party to the action. Such notice shall contain all other information required by rule 1.707(1) and shall state that the telephone conference will be arranged and paid for by the initiating party. No part of the expense for telephone service shall be taxed as costs.

The person reporting the testimony shall be in the presence of the witness unless otherwise agreed by all parties.

If any examining party desires to present exhibits to the witness during the deposition, copies shall be sent to the deponent and the parties prior to the taking of the deposition.

Nothing in this rule shall prohibit a party or counsel from being in the presence of the deponent when the deposition is taken.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

Rule 1.702 Depositions in small claims. In small claims, depositions may not be taken unless leave of court is first obtained on notice and showing of just cause therefor and upon such terms as justice may require.

[Report 1943; amendment 1957; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

COMMENT: The revised rule requires leave of court before any depositions may be taken in a small claims case. The prior rule required leave of court for discovery depositions and did not address depositions for evidentiary purposes. The distinction between discovery and evidentiary depositions was previously abolished.

Rule 1.703 Deposition notice to parties in default. A party requiring proof to obtain a judgment against a defaulted party may take depositions after serving notice on the attorney of record for the defaulted party, or on any defaulted party having no attorney of record. Parties in default are not entitled to notice as to depositions taken under any other rule.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

COMMENT: The rule eliminates the requirement that a copy of the deposition notice be served on the Clerk if the defaulted party has no attorney and adds a requirement that notice be given to any defaulted party who has no attorney of record.

Rule 1.704 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, to do any of the following:

1.704(1) To impeach or contradict deponent's testimony as a witness.

1.704(2) 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.

1.704(3) 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.

1.704(4) 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.

1.704(5) 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.

[Report 1943; amendment 1957; Report August 27, 1987, effective November 2, 1987; Report March 21, 1989, effective June 1, 1989; November 9, 2001, effective February 15, 2002]

Rule 1.705 Effect of taking or using depositions.

1.705(1) If a party offers only part of a deposition, any other party may require an offer of all of the deposition relevant to the portion offered, and any other party may offer other relevant parts.

1.705(2) A party does not make a deponent the party's own witness by taking a deposition or using it solely under rule 1.704(1) or 1.704(2). A party introducing a deposition for any other purpose makes the deponent that party's witness, but may contradict the witness' testimony by relevant evidence.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.706 Substituted parties; successive actions. Substitution of parties does not prevent use of depositions previously taken in the action. If an action is dismissed, depositions legally taken therein may be used in any subsequent action involving the same subject matter, between the same parties, their representatives or successors in interest.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.707 Notice for oral deposition.

1.707(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs.

1.707(2) If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

1.707(3) The notice to a party deponent may be accompanied by a request made in compliance with rule 1.512 for the production of documents and tangible things at the taking of the deposition. The procedure of rule 1.512(2) shall apply to the request.

1.707(4) No subpoena is necessary to require the appearance of a party for a deposition. Service on the party or the party's attorney of record of notice of the taking of the deposition of the party or of an officer, partner or managing agent of any party who is not a natural person, as provided in rule 1.707(1), is sufficient to require the appearance of a deponent for the deposition.

1.707(5) A notice or subpoena may name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the witness will testify. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This rule does not preclude taking a deposition by any other procedure authorized in the rules in this chapter.
[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008]

Rule 1.708 Conduct of oral deposition.

1.708(1) *Examination; cross-examination; recording examination; administering the oath; objections; written questions.*

a. Examination and cross-examination; recording examination; administering oath. Examination and cross-examination of witnesses may proceed as permitted at the trial. The officer before whom the deposition is to be taken shall put the witness under oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with rule 1.701(4). If requested by one of the parties, the testimony shall be transcribed.

b. Objections. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. An objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under rule 1.708(2).

c. Participating through written questions. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition who shall transmit them to the officer. The officer shall propound them to the witness and record the answers verbatim.

1.708(2) Sanction; motion to terminate or limit examination.

a. Sanction. The court may impose an appropriate sanction, including the reasonable expenses and attorney fees incurred by any party, on a person who impedes, delays, or frustrates the fair examination of the deponent.

b. Motion to terminate or limit. At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the court in the district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in rule 1.504. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of rule 1.517(1)(d) apply to the award of expenses incurred in relation to the motion.

[Report 1943; amendment 1957; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 28, 2014, effective January 1, 2015]

Rule 1.709 Reading and signing depositions.

1.709(1) Where reading or signing not required. No oral deposition reported and transcribed by an official court reporter or certified shorthand reporter of Iowa need be submitted to, read or signed by the deponent.

1.709(2) Submission to witness; changes; signing. In other cases, when the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or dead or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission, the officer shall sign it and state on the record the fact of the waiver or of the illness, death, or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor. The deposition may then be used as fully as though signed unless on a motion to suppress under rule 1.717(6) the court holds that the reason given for the refusal to sign requires rejection of the deposition in whole or in part.

[Report 1943; amendment 1963; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.710 Depositions on written interrogatories.

1.710(1) A party may take depositions on written interrogatories after first serving all other parties not in default for failure to appear with copies thereof and with a notice stating the name, title, and address of the officer to take them, and the name and address of the deponents.

1.710(2) Other parties may thereafter serve successive interrogatories on each other, but only as follows: Cross-interrogatories within ten days after the notice; redirect interrogatories within five

days after the latter service; and recross interrogatories within three days thereafter. On application of any party, the court may, for good cause shown, shorten or enlarge the time for serving any such succeeding interrogatories.

1.710(3) Within the time required for cross-interrogatories, a party may elect instead to appear and orally cross-examine, by serving notice thereof on the party taking the deposition and all other parties. The party taking the deposition shall then within five days serve all parties with notice of the date, hour, and place where the deposition will be taken, which shall allow a reasonable time to enable the parties to attend. A party may waive the original written interrogatories and examine the deponent orally.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

COMMENT: Rules 1.710(2) and 1.710(3) allow all parties, not just those who are adversaries to the party taking the deposition, to serve written interrogatories, elect to appear and orally cross-examine the witness, and receive notice.

Rule 1.711 Answers to interrogatories. The party taking a deposition on written interrogatories shall promptly transmit a copy of the notice and all interrogatories to the officer designated in the notice. The officer shall promptly take deponent's answers thereto and complete the deposition, all as provided in rules 1.708 and 1.709, except that answers need not be taken stenographically.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.712 Certification and return; copies.

1.712(1) The officer shall certify on the deposition that the witness was duly sworn and that the deposition is a true record of the testimony given by the witness. Documents and things produced for inspection during the deposition shall, upon the request of a party, be marked for identification and annexed to the deposition, and may be inspected and copied by any party, except that:

a. The person producing the materials may substitute copies to be marked for identification, if all parties are provided fair opportunity to verify the copies by comparison with the originals.

b. If the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to the deposition. Any party may move for an order that the original materials be filed with the court, pending final disposition of the case.

1.712(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

[Report 1943; amendment 1973; amendment 1980; Report October 15, 1993, effective January 3, 1994; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.713 Before whom taken.

1.713(1) The officer taking the deposition shall not be a party, a person financially interested in the action, an attorney or employee of any party, an employee of any such attorney, or any person related within the fourth degree of consanguinity or affinity to a party, a party's attorney, or an employee of either of them.

1.713(2) The officer taking the deposition, or any other person with whom such officer has a principal and agency relationship, shall not enter into an agreement for reporting services which does any of the following:

a. Requires the court reporter reporting the deposition to relinquish control of an original deposition transcript and copies of the transcript before it is certified and delivered to the custodial attorney.

b. Requires the court reporter to provide special financial terms or other services that are not offered at the same time and on the same terms to all other parties in the litigation.

c. Gives an exclusive monetary or other advantage to any party.

1.713(3) Depositions within the United States or a territory or insular possession thereof may be taken before any person authorized to administer oaths by the laws of the United States, this state, or any other state, or of the place where the examination is held.

1.713(4) Depositions in a foreign land may be taken before a secretary of embassy or legation, or a consul, vice-consul, consul-general or consular agent of the United States, or under rule 1.714.

1.713(5) The deposition of a witness who is in the military or naval service of the United States may be taken before any commissioned officer under whose command the witness is serving, or any commissioned officer in the judge advocate general's department.
[Report 1943; amendment 1945; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; April 9, 2003, effective July 1, 2003]

Rule 1.714 Letters rogatory. A commission or letters rogatory to take depositions in a foreign land shall be issued only when convenient or necessary, on application and notice, and on such terms and with such directions as are just and appropriate. They shall specify the officer to take the deposition, by name or descriptive title, and may be addressed: "To the Appropriate Judicial Authority of (country)."
[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.715 Deposition subpoena.

1.715(1) On application of any party, or proof of service of a notice to take depositions under rule 1.707 or rule 1.710, the clerk of court where the action is pending shall issue subpoenas for persons named in and described in said notice of application. Subpoenas may also be issued as provided by statute or by rule 1.1701.

1.715(2) No resident of Iowa shall be subpoenaed to attend more than 50 miles from where the deponent resides, or is employed, or transacts business in person.
[Report 1943; amendment 1957; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 10, 2009, effective October 9, 2009]

Rule 1.716 Costs of taking deposition. Costs of taking and proceeding to procure a deposition shall be paid by the party taking it who cannot use it in evidence until such costs are paid. The judgment shall award against the losing party only such portion of these costs as were necessarily incurred for testimony offered and admitted upon the trial.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.717 Irregularities and objections.

1.717(1) Notice. All objections to any notice of taking any depositions are waived unless promptly served in writing upon the party giving the notice.

1.717(2) Officer. Objection to the officer's qualification to take a deposition is waived unless made before such taking begins, or as soon thereafter as objector knows it or could discover it with reasonable diligence.

1.717(3) Interrogatories. All objections to the form of any written interrogatory served under rule 1.710 are waived unless the objections are served on the interrogating party within the time allowed the objector for serving succeeding interrogatories and, as to the last interrogatories authorized, within three days after the service thereof.

1.717(4) Taking depositions. Errors or irregularities occurring during an oral deposition as to any conduct or manner of taking it, or the oath, or the form of any question or answer, and any other errors which might thereupon have been cured, obviated or removed, are waived unless seasonably objected to during the deposition.

1.717(5) Testimony. Except as above provided, testimony taken by deposition may be objected to at the trial on any ground which would require its exclusion if given by a witness in open court, and objections to testimony, or competency of a witness, need not be made prior to or during the deposition, unless the grounds thereof could then have been obviated or removed.

1.717(6) Motion to suppress. All objections to the manner of transcribing the testimony, or to preparing, signing, certifying, sealing, endorsing, or transmitting the deposition, or the officer's dealing with it, are waived unless made by motion to suppress the deposition or the part complained of. Such motion shall be filed with reasonable promptness after the objector knows of, or could with reasonable diligence discover, the defect. No such motion shall be sustained unless the defect is substantial and materially affects the right of some party.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.718 to 1.720 Reserved.

B. PERPETUATING TESTIMONY

Rule 1.721 Common law preserved. Rules 1.722 through 1.728 do not limit the court's common law powers to entertain actions to perpetuate testimony.
[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.722 Application before action. An application to take depositions to perpetuate testimony for use in an action not yet pending shall be filed in the court where the prospective action might be brought. The application shall be captioned in the name of the applicant, be supported by affidavit, and show all of the following:

1.722(1) That the applicant expects to be a party to an action cognizable in some court of record of Iowa, but which cannot currently be brought.

1.722(2) The subject matter of such action, and the applicant's interest therein.

1.722(3) The facts to be shown by the proposed testimony, and reasons for desiring to perpetuate it.

1.722(4) The name or description of each expected adverse party, with address if known.

1.722(5) The name and address of each deponent and the substance of the deponent's testimony.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.723 Notice of application. The applicant shall thereafter serve a notice upon each person named in the application as an expected adverse party, together with a copy of the application, stating that the application will come on for hearing at a time and place named therein. The notice shall be served as provided for the service of original notices other than by publication at least 20 days before the date of hearing. If service cannot with due diligence be so made upon any expected adverse party named in the application, the court may make such order as is just for service by publication or otherwise, or may, upon a showing of extraordinary circumstances, prescribe a hearing upon less than 20 days' notice.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.724 Guardian ad litem. Before hearing the application, the court shall appoint an attorney to act as guardian ad litem for any person under legal disability or not personally served with notice, who shall cross-examine for the ward if any deposition is ordered, and unless an attorney has been so appointed the deposition shall not be admissible against such person in any subsequent action.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.725 Order allowing application. If satisfied that the application is not for the purpose of discovery, and that its allowance may prevent future delay or failure of justice, and that the applicant is unable to bring the contemplated action or cause it to be brought, the court shall order the testimony perpetuated. In its order, the court shall designate the deponents, the subject matter of their examination, the time, location and officer before whom the depositions shall be taken, and whether orally or on written interrogatories.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.726 Taking and filing testimony. Depositions shall be taken as directed in the court's order; and shall be otherwise governed by rules 1.708 to 1.713 and 1.717. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which the petition was filed shall be deemed to refer to the court in which the application for such deposition was filed. Unless the court enlarges the time, all such depositions must be filed therein within 30 days after the date fixed for taking them, and if not so filed cannot be later received in evidence.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.727 Limitations on use. Any party to any later action involving any expected adverse party who was named in the application and who was served with notice as required in rule 1.723 or the privies or successors in interest of such expected adverse party, may use such deposition, or a certified copy thereof, if the deponent is dead, mentally ill or if the deponent's attendance cannot be obtained.
[Report 1943; amended by 58GA, ch 152, §202; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.728 Perpetuating testimony pending appeal. During the time allowed for taking an appeal from judgment of a court of record or during the pendency of such appeal, that court may, on motion, allow testimony to be perpetuated for use in the event of further proceedings before it. The motion shall state the name and address of each proposed deponent, the substance of the deponent's expected testimony, and the reason for perpetuating it. If the court finds such perpetuation is proper to avoid a failure or delay of justice, and the depositions are not sought for discovery, it may order them taken as in rules 1.725 and 1.726. When taken and filed as thus provided, they shall be used and treated as though they had been taken pending the trial of the action.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.729 to 1.800 Reserved.

DIVISION VIII **CHANGE OF VENUE**

Rule 1.801 Grounds for change. On motion, the place of trial may be changed in the following situations:

1.801(1) County. If the county where the case would be tried is a party, the motion is by an adverse party, the issue is triable by a jury, and a jury has been demanded.

1.801(2) Interest of judge. Where the trial judge is directly interested in the action, or related by consanguinity or affinity within the fourth degree to any party.

1.801(3) Prejudice or influence. If the trial judge or the inhabitants of the county are so prejudiced against the moving party, or if an adverse party has such undue influence over the county's inhabitants that the movant cannot obtain a fair trial. The motion in such case shall be supported by affidavit of the movant and three disinterested persons, none being the agent, servant, employee or attorney of the movant, nor related to the movant by consanguinity or affinity within the fourth degree. The other party shall have a reasonable time to file counter affidavits. Affiants may be examined pursuant to rule 1.431(6).

1.801(4) Agreement. Pursuant to written agreement of the parties.

1.801(5) Fraud in contract. A defendant, respondent, or other party, sued in a county where the party does not reside, on a written contract expressly performable in that county, who has filed a sworn answer claiming fraud in the inception of said contract as a complete defense, may have the case transferred to the county of that party's residence. Within ten days after the transfer is ordered, the defendant, respondent, or other party must file a bond in an amount fixed by the court, with sureties approved by the clerk, for payment of all costs; and any judgment rendered against such party shall include costs in a reasonable amount fixed by the court for expenses incurred by plaintiff and plaintiff's attorney by reason of the change.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.802 Limitations. Change of venue shall not be allowed under any of the following circumstances:

1.802(1) In an appeal from a small claims case.

1.802(2) Under rule 1.801(3) where the issues are triable to the court alone, except for prejudice of the judge.

1.802(3) Until the issues are made up, unless the objection is to the judge.

1.802(4) After a continuance, except for a cause arising since such continuance or not known to movant prior thereto.

1.802(5) After one change, for any cause then existing, and known or ascertainable with reasonable diligence.

In no event shall more than two changes be allowed to any party.

[Report 1943; July 28, 1986, effective October 1, 1986; November 9, 2001, effective February 15, 2002]

Rule 1.803 Subsequent change. Where the case is tried after a change of place of trial, and the jury disagrees or a new trial is granted, the court may in its discretion allow a subsequent change, under rule 1.801(1), 1.801(2), 1.801(3), or 1.801(4), subject to rule 1.802.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.804 Of whole case. A change may be granted on motion of one of several coparties; and the whole cause shall then be transferred, unless separate trials are granted under rule 1.914.
[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.805 Where tried. Unless the change is under rule 1.801(5), the court granting it shall order the trial held in a convenient county in the judicial district, or if the ground applies to all such counties, then in another judicial district. If the ground applies only to a judge, the court in its discretion may refuse a change and procure another judge to try the case where it was brought, or the supreme court may designate another judge.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.806 Costs. Unless the change is under rule 1.801(4) or 1.801(5), the order shall designate generally all costs occasioned by the change, which movant must pay before the change is perfected. Failure to make such payment within ten days from the order waives the change of venue.
[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.807 Transferring cause. When a change is ordered and the required costs paid, the clerk shall forthwith transmit to the proper court a transcript of the proceedings with any original papers and shall retain an authenticated copy. The case shall be docketed in the second court without fee and shall proceed.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.808 Action brought in wrong county.

1.808(1) An action brought in the wrong county may be prosecuted there until termination, unless a defendant, before answer, moves for change to the proper county. Thereupon the court shall order the change at plaintiff's costs, which may include reasonable compensation for defendant's trouble and expense, including attorney's fees, in attending in the wrong county.

1.808(2) If all such costs are not paid within 20 days of the transfer order, the action shall be dismissed. Upon payment of the costs, the clerk shall forthwith transmit to the proper court the transcript of the proceedings, with any original papers, an authenticated copy of which shall be retained. The case shall be docketed in the second court without fee and shall proceed.
[Report 1943; November 30, 1993, effective July 1, 1994; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.809 to 1.900 Reserved.

**DIVISION IX
TRIAL AND JUDGMENT**

A. TRIALS

Rule 1.901 Trials and issues. A trial is a judicial examination of issues in an action, whether of law or fact. Issues arise where a pleading of one party maintains a claim controverted by an adverse party. Issues are either of law or fact. An issue of fact arises on a material allegation of fact in a pleading which is denied in an adversary's pleading or by operation of law. All other issues are issues of law which must be tried first.
[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.902 Demand for jury trial.

1.902(1) Jury trial is waived if not demanded according to this rule; but a demand once filed may not be withdrawn without consent of all parties not in default.

1.902(2) A party desiring a jury trial of an issue must make written demand therefor not later than ten days after the last pleading directed to that issue. A jury demand may be made in the pleading of a party and shall be noted in the caption. If filed separately with the petition, the jury demand shall be served with the original notice and petition. If filed after the petition, the jury demand shall be served and filed in accordance with rule 1.442.

1.902(3) Unless limited to a specific issue, every demand shall be deemed to include all issues triable to a jury. If a limited demand is filed, any other party may, within ten days thereafter or such shorter time as the court may order, file a demand for a jury trial of some or all other issues.

1.902(4) Notwithstanding the failure of a party to demand a jury in an action in which a demand might have been made of right, the court, in its discretion on motion and for good cause shown, but not ex parte, and upon such terms as the court prescribes, may order a trial by jury of any or all issues. [Report 1943; amendment 1945; amendment 1961; amendment 1979; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.903 Trial of issues; reporting.

1.903(1) *Trial of issues.* All issues shall be tried to the court except those for which a jury is demanded. Issues for which a jury is demanded shall be tried to a jury unless the court finds that there is no right thereto or all parties appearing at the trial waive a jury in writing or orally in open court.

1.903(2) *Reporting.* Unless waived by the parties, all trial proceedings shall be reported including:

- a. All oral comments or statements of the court during the progress of the trial, any objections, and the court's rulings.
- b. The proceedings impaneling the jury, any objections, and the court's rulings.
- c. Opening statements, any objections, and the court's rulings.
- d. The oral testimony, offers of proof, any objections, and the court's rulings.
- e. The fact that the testimony was closed to the public.
- f. The identification of exhibits, by letter or number or other appropriate mark, all written or other evidence offered, any objections, and the court's rulings.
- g. All motions or other pleas made during the trial, any objections, and the court's rulings.
- h. Closing arguments, any objections, and the court's rulings.
- i. The return of the verdict.
- j. Any other proceedings before the court or jury which might be preserved and made of record by a bill of exceptions.

1.903(3) *Court reporter memorandum.* Promptly after reporting a proceeding a court reporter shall file a memorandum that includes all of the following:

- a. The type of proceeding that was reported.
- b. The date(s) on which the proceeding occurred.
- c. The name of the court reporter who reported the proceeding.
- d. The name of the judge who presided over the proceeding.
- e. The reporting fee for the proceeding.

The court reporter shall use the court reporter memorandum form found in rule 1.1901, form 12. The form shall be signed by the court reporter. The court reporter is not required to serve the memorandum on the parties. The district court clerk shall enter the memorandum on the docket. This memorandum shall constitute the certification required by Iowa Code section 624.10.

1.903(4) *Transcripts—rates for transcribing a court reporter's official notes.* Pursuant to Iowa Code section 602.3202, the maximum compensation of shorthand reporters for transcribing their official notes shall be as provided in Iowa Ct. R. 22.28.

[Report 1943; November 9, 2001, effective February 15, 2002; April 27, 2006, effective July 1, 2006; March 15, 2007, effective June 1, 2007; July 31, 2008, effective October 1, 2008; August 10, 2009, effective October 9, 2009]

Rule 1.904 Findings by court.

1.904(1) *Findings; conclusions; judgment.* The court trying an issue of fact without a jury, whether by equitable or ordinary proceedings, shall find the facts in writing, separately stating its conclusions of law, and direct an appropriate judgment. A party, on appeal, may challenge the sufficiency of the evidence to sustain any finding without having objected to it by motion or otherwise. No request for findings is necessary for purposes of review. Findings of a master shall be deemed those of the court to the extent it adopts them.

1.904(2) *Motion to reconsider, enlarge, or amend.* On motion joined with or filed within the time allowed for a motion for new trial, the findings and conclusions may be reconsidered, enlarged, or amended and the judgment or decree modified accordingly or a different judgment or decree substituted. Resistances to such motions and replies may be filed and supporting briefs may be served as provided in rules 1.431(4) and 1.431(5).

1.904(3) *Motions to reconsider, enlarge, or amend other court orders, rulings, judgments, or decrees; time for filing.* In addition to proceedings encompassed by rule 1.904(1), a rule 1.904(2) motion to reconsider, enlarge, or amend another court order, ruling, judgment, or decree will be

considered timely if filed within 15 days after the filing of the order, judgment, or decree to which it is directed.

1.904(4) Successive rule 1.904(2) motions. Successive rule 1.904(2) motions by a party are prohibited unless the court has modified its order, ruling, judgment, or decree and the subsequent rule 1.904(2) motion is directed only at the modification.

COMMENT:

Rules 1.904(3) and 1.904(4). Rules 1.904(3) and 1.904(4) supersede prior case law that held a timely rule 1.904(2) motion must also have been “proper” to extend the time for appeal. *See, e.g., Hedlund v. State*, 875 N.W.2d 720, 725 (Iowa 2016). To obviate controversies over whether a rule 1.904(2) motion tolls the time for appeal, the rule authorizes any timely rule 1.904(2) motion to extend the appeal deadline, subject to one exception in rule 1.904(4).

Under rule 1.904, the timely filing of a rule 1.904(2) motion extends the deadline for filing a notice of appeal or an application for interlocutory appeal. *See* Iowa R. App. P. 6.101(1)(b) and 6.104(1)(b)(2). However, the rule does not address whether a rule 1.904(2) motion preserves error for purposes of appeal as to evidence or arguments raised for the first time in that motion. *See, e.g., Tenney v. Atlantic Associates*, 594 N.W.2d 11, 14 (Iowa 1999). The rule also is not intended to affect prior case law concerning a court’s inherent authority to reconsider. *See Iowa Elec. Light & Power Co. v. Lagle*, 430 N.W.2d 393, 395-96 (Iowa 1988). [Court Order November 18, 2016, effective March 1, 2017]

[Report 1943; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; November 18, 2016, effective March 1, 2017]

Rule 1.905 Exceptions unnecessary. Exceptions to rulings or orders of court are unnecessary whenever a matter has been called to the attention of the court, by objection, motion or otherwise and the court has ruled thereon.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.906 Civil trial-setting conference. Except in domestic relations proceedings, no later than 21 days after any defendant has answered or appeared, the clerk shall provide a notice of civil trial-setting conference to all parties not in default. The clerk shall use Iowa Court Rule 23.5—Form 1: Notice of Civil Trial-Setting Conference, to provide the notice. The notice shall schedule a trial-setting conference no earlier than 35 days after and no later than 50 days after any defendant has answered or appeared. The parties are responsible for obtaining a timely trial-setting conference regardless of whether a party receives notice of the trial-setting conference. Failure to receive notice shall not be grounds to avoid dismissal under rule 1.944. A party may move for an earlier trial-setting conference upon giving notice to all parties. The court and the parties shall use Iowa Court Rule 23.5—Form 2: Trial Scheduling and Discovery Plan to set the trial date. If a trial is continued, the court shall set the trial to a date certain. Unless otherwise ordered, all previous deadlines will continue to apply to the case.

COMMENT:

Rule 1.906. Following receipt of the parties’ Trial Scheduling and Discovery Plan and after the trial-setting conference, it is contemplated that the district court or its designee will enter an order scheduling trial. This order would also approve, supplement, or modify the terms of the Trial Scheduling and Discovery Plan as needed.

[Court Order October 30, 2014, effective January 1, 2015]

[Report 1943; amendment 1961; amendment 1977; Report 1978, effective July 1, 1979; amendment 1979; amendment 1984; Report May 28, 1987, effective August 3, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; June 27, 2008, effective September 1, 2008; August 28, 2014, October 30, 2014, effective January 1, 2015; Court Order April 1, 2015, temporarily effective April 1, 2015, permanently effective June 1, 2015]

Rule 1.907 Trial assignments.

1.907(1) Civil cases. The court, in the exercise of its discretion, may assign a case for trial by order upon any one of the following:

- a. The conclusion of a scheduling or pretrial conference.
- b. The conclusion of a trial-setting conference.
- c. The agreement of all parties or their counsel.

d. 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.

1.907(2) Small claims appeals. At least twice each month, the clerk of court shall present to a judge authorized by statute to hear the appeal, the file and any transcript or exhibits in each small claims case in which appeal was taken more than 20 days previously. The appeal shall be decided upon the record without oral argument unless, within 20 days after the appeal was taken, a party filed

with the clerk of court a written request for oral argument specifying the issues to be argued, in which event the judge may schedule oral argument. Additional evidence shall not be received except as authorized by statute.

[Report 1961; amended by 62GA, ch 474, §1; amendment 1969; amendment 1979; amended by 1984 Iowa Acts, ch 1322, §8; Report December 3, 1985, effective February 3, 1986; May 28, 1987, effective August 3, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.908 Duty to notify court.

1.908(1) *Of settlements.* Whenever a case assigned for trial has been settled, it shall be the duty of the attorneys or parties appearing in person to so notify the court immediately.

1.908(2) *Of conflicting engagements and termination thereof.* When a case assigned for trial is reached and an attorney of record therein is then actually engaged in a trial in another court, it shall be the attorney's duty to so inform the court who may hold the trial of such case in abeyance until the engagement is concluded. As soon as the attorney is free from such engagement, it shall be the attorney's duty to notify the court immediately and stand ready to proceed with trial of the case.

[Report 1961; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.909 Fee for late settlement of jury trial. In the event a party waives a jury trial or gives notice of settlement later than two full working days before a civil action is scheduled to be tried to a jury or is reached for jury trial, whichever is later, or the case is settled during trial, a fee of \$1000 shall be assessed as court costs. A late settlement fee shall not be waived by the court nor shall a continuance be granted for purposes of avoiding imposition of this fee. Fees so collected shall be remitted by the clerk to the treasurer of state to be deposited in the general fund of the state.

[Report 1984; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; January 7, 2010, effective March 8, 2010; November 30, 2010, effective January 28, 2011]

Rule 1.910 Motions for continuance.

1.910(1) Motions for continuance shall be filed without delay after the grounds therefor become known to the party or the party's counsel. Such motion may be amended only to correct a clerical error.

1.910(2) No case assigned for trial shall be continued ex parte. All motions for continuance in a case set for trial shall be signed by counsel, if any, and approved in writing by the party represented, unless such approval is waived by court order.

[Report 1943; February 13, 1986, effective July 1, 1986; November 9, 2001, effective February 15, 2002]

Rule 1.911 Causes for continuance.

1.911(1) A continuance may be allowed for any cause not growing out of the fault or negligence of the movant, which satisfies the court that substantial justice will be more nearly obtained. It shall be allowed if all parties so agree and the court approves.

1.911(2) All such motions based on absence of evidence must be supported by affidavit of the party, the party's agent or attorney, and must show the following:

a. The name and residence of the absent witness, or, if unknown, that affiant has used diligence to ascertain them.

b. What efforts, constituting due diligence, have been made to obtain the witness or the witness' testimony, and facts showing reasonable grounds to believe the testimony will be procured by a certain, specified date.

c. What particular facts, distinct from legal conclusions, affiant believes the witness will prove, affiant believes the facts to be true, and affiant knows of no other witness by whom the facts can be fully proved.

1.911(3) If the court finds such motion sufficient, the adverse party may avoid the continuance by admitting that the witness if present, would testify to the facts therein stated, as the evidence of such witness.

[Report 1943; amendment 1961; amendment 1980; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.912 Objections; ruling; costs. The adverse party may at once, or within such reasonable time as the court allows, file specific written objections to the motion for continuance, which shall be part of the record. Where the defenses are distinct, the cause may be continued as to any one or

more defendants. Every continuance shall be at the cost of the movant unless otherwise ordered by the court.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.913 Consolidation. Unless a party shows the party will be prejudiced thereby the court may consolidate separate actions which involve common questions of law or fact or order a single trial of any or all issues therein. In such cases it may make such orders concerning the proceedings as tend to avoid unnecessary cost or delay.

[Report 1943; amendment 1955; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.914 Separate trials. In any action the court may, for convenience or to avoid prejudice, order a separate trial of any claim, counterclaim, cross-claim, cross-petition, or of any separate issue, or any number of any of them. Any claim against a party may be thus severed and proceeded with separately.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.915 Impaneling jury.

1.915(1) Selection. At each jury trial a person designated by the court shall select 16 jurors by drawing their names from a box without seeing the names. All jurors so drawn shall be listed. Computer selection processes may be used instead of separate ballots to select jury panels. Before drawing begins, either party may require that the names of all jurors be called, and have an attachment for those absent who are not engaged in other trials; but the court may wait for its return or not, in its discretion.

1.915(2) Oath or examination. The prospective jurors shall be sworn. The parties shall have the right to examine those drawn. The court may conduct such examination as it deems proper. It may on its own motion exclude any juror.

1.915(3) Challenges. Challenges are objections to trial jurors for cause, and may be either to the panel or to an individual juror. The court shall determine the law and fact as to all challenges, and must either allow or deny them.

1.915(4) To panel. Before any juror is sworn, either party may challenge the panel, in writing, distinctly specifying the grounds, which can be founded only on a material departure from the statutory requirements for drawing or returning the jury. On trial thereof, any officer, judicial or ministerial, whose irregularity is complained of, and any other persons, may be examined concerning the facts specified. If the court sustains the challenge it shall discharge the jury, no member of which can serve at that trial.

1.915(5) To juror. Challenge to an individual juror must be made before the jury is sworn to try the case. On demand of either party to a challenge, the juror shall answer every question pertinent to the inquiry, and other evidence may be taken.

1.915(6) For cause. A juror may be challenged by a party for any of the following causes:

- a. Conviction of a felony.
- b. Want of any statutory qualification required to make that person a competent juror.
- c. Physical or mental defects rendering the person incapable of performing the duties of a juror.
- d. Consanguinity or affinity within the ninth degree to the adverse party.
- e. Being a conservator, guardian, ward, employer, employee, agent, landlord, tenant, family member, or member of the household of the adverse party.
- f. Being a client of the firm of any attorney engaged in the cause.
- g. Being a party adverse to the challenging party in any civil action; or having complained of or been accused by the challenging party in a criminal prosecution.
- h. Having already sat upon a trial of the same issues.
- i. Having served as a grand or trial juror in a criminal case based on the same transaction.
- j. When it appears the juror has formed or expressed an unqualified opinion on the merits of the controversy, or shows a state of mind which will prevent the juror from rendering a just verdict.
- k. Being interested in an issue like the one being tried.
- l. Having requested, directly, or indirectly, that the person's name be returned as a juror.

Exemption from jury service is not a ground of challenge, but the privilege of the person exempt.

1.915(7) Number; striking. Each side must strike four jurors. Where there are two or more parties represented by different counsel, the court in its discretion may authorize and fix an additional number

of jurors to be impaneled and strikes to be exercised. After all challenges are completed, plaintiff and defendant shall alternately exercise their strikes.

1.915(8) *Vacancies.* After a challenge is sustained, another juror shall be called and examined and shall be subject to being challenged or stricken as are other jurors.

1.915(9) *Jury sworn.* The names of the eight jurors who remain on the list after all others have been stricken shall be read. These shall constitute the jury and shall be sworn substantially as follows:

“You and each of you do solemnly swear (or affirm) that you will well and truly try the issues wherein _____ is plaintiff and _____ is defendant, and a true verdict render; and that you will do so solely on the evidence introduced and in accordance with the instructions of the court.”

[Report 1943; amendment 1980; amendment 1982; 1986 Iowa Acts, ch 1108, §55; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.916 *Saturday a religious day.* Prior to final submission of the case, no juror whose faith requires observing Saturday as a religious day can be compelled to attend on that day.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.917 *Juror incapacity; minimum number of jurors.*

1.917(1) *Juror incapacity.* In the event any juror becomes unable to act, or is disqualified, before the jury retires the remaining jurors shall continue to try the case.

1.917(2) *Minimum of six jurors required.* In the event more than two jurors become unable to act, or are disqualified, before the jury retires and renders a verdict, the court shall declare a mistrial.

[Report 1943; amendment 1980; November 9, 2001, effective February 15, 2002]

Rule 1.918 *Returning ballots to box.* When a jury is sworn, the ballots containing the names of those absent or excused from the trial shall be immediately returned to the box. Those containing the names of jurors sworn shall be set aside, and returned to the box immediately on the discharge of that jury.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.919 *Procedure after jury sworn.* After the jury is sworn, the trial shall proceed in the following order:

1.919(1) The party having the burden of proof on the whole action may briefly state the party's claim, and by what evidence the party expects to prove it.

1.919(2) The other party may similarly state that party's defense and evidence.

1.919(3) The first above party must then produce that party's evidence; to be followed by that of the adverse party.

1.919(4) The parties will be confined to rebutting evidence, unless the court in furtherance of justice, permits them to offer evidence in their original case.

1.919(5) Only one counsel on each side shall examine the same witness, unless otherwise permitted by the court.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.920 *Further testimony for mistake.* At any time before final submission, the court may allow any party to offer further testimony to correct an evident oversight or mistake, imposing such terms as it deems just.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.921 *Adjournments.* After trial begins, the court may, in furtherance of justice, adjourn it for such time, and on such conditions as to costs or otherwise, as it deems just.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.922 *View.* When the court deems proper, it may order an officer to conduct the jury in a body to view any real or personal property, or any place where a material fact occurred, and to show it to

them. No other person shall speak to them during their absence on any subject connected with the trial.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.923 Arguments. The parties may either submit the case or argue it. The party with the burden of the issue shall have the opening and closing arguments. In opening, the party shall disclose all points the party relies on, and if the party's closing argument refers to any new material point or fact not so disclosed, the adverse party may reply thereto, which shall close the argument. A party waiving opening argument is limited, in closing, to reply to the adverse argument; otherwise the adverse party shall have the closing argument. The court may limit the time for argument to itself, but not for arguments to the jury.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.924 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 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 the rules in this chapter 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.

[Report 1943; amendment 1961; amendment 1970; amendment 1973; amended by 65GA, ch 315, §2; amended September 5, 1984, effective November 5, 1984; amended February 21, 1985, effective July 1, 1985; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.925 Additional instructions. While the jury is deliberating, the court may in its discretion further instruct the jury, in the presence of or after notice to counsel. Such instruction shall be in writing, be filed as other instructions in the case, and be a part of the record and any objections thereto shall be made in a motion for a new trial.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.926 Materials available to jurors.

1.926(1) Notes. Jurors shall be permitted to take notes during the trial using materials to be provided by the court on the request of any juror. The court shall instruct the jury that the notes are not evidence and must be destroyed at the completion of the jury's deliberations.

1.926(2) What jury may take to jury room. When retiring to deliberate, jurors may take their notes with them and shall take with them all exhibits in evidence except as otherwise ordered. Depositions shall not be taken unless all of the evidence is in writing and none of it has been stricken.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.927 Separation and deliberation of jury.

1.927(1) A jury once sworn shall not separate unless so ordered by the court, who must then advise them that it is the duty of each juror not to converse with any other juror or person, nor be addressed on the subject of the trial; and that, during the trial it is the duty of each juror to avoid, as far as possible, forming any opinion thereon until the cause is finally submitted.

1.927(2) On final submission, the jury shall retire for deliberation, and be kept together in charge of an officer until the jurors agree on a verdict or are discharged by the court, unless the court permits the jurors to separate temporarily overnight, on weekends or holidays, or in emergencies. During their deliberations, the officer in charge must not allow any communication to be made to the jurors, nor may the officer make any, except to ask them if they have agreed on a verdict, unless by order of court; nor communicate to any person the state of their deliberations, or the verdict agreed upon before it is rendered.

[Report 1943; amendment 1967; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.928 Discharge; retrial. The court may discharge a jury because of any accident or calamity requiring it, or by consent of all parties, or when on an amendment a continuance is ordered, or if they have deliberated until it satisfactorily appears that they cannot agree. The case shall be retried immediately or at a future time, as the court directs.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.929 Court open for verdict. The court may adjourn as to other business while the jury is absent, but shall be open for every purpose connected with the cause submitted to the jury until it returns a verdict or is discharged.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.930 Food and lodging. The court may order that food and lodging be provided at state expense for a jury being kept together to try or deliberate on a cause.

[Report 1943; 1983 Iowa Acts, ch 186, §10142; November 9, 2001, effective February 15, 2002]

Rule 1.931 Rendering verdict and answering interrogatories.

1.931(1) 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.

1.931(2) 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 the juror's finding. If the required number of jurors does 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.

1.931(3) 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. [Report 1943; amendment 1973; amended by 65GA, ch 315, §4; amendment 1980; amended February 21, 1985, effective July 1, 1985; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.932 Form and entry of verdicts. General verdicts, special verdicts, and answers to interrogatories shall be in writing. When unanimous they shall be signed by the foreman or forewoman chosen by the jury, and when they are not unanimous, they shall be signed by all jurors concurring therein. They shall be sufficient in form if they express the intent of the jury. They shall be filed with the clerk and be entered of record after being put in form by the court if need be.

[Report 1943; amendment 1973; November 9, 2001, effective February 15, 2002]

Rule 1.933 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 the rules in this chapter.

[Report 1943; amended February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 1.934 Interrogatories. The jury in any case in which it renders a general verdict may be required by the court, and must be so required on the request of any party to the action, to find specially upon any particular questions of fact, to be stated to it in writing, which questions of fact shall be submitted to the attorneys of the adverse party before argument to the jury is commenced. The instructions shall be such as will enable the jury to answer the interrogatories and return the verdict. If both are harmonious, the court shall order the appropriate judgment. If the answers are consistent with each other, but any is inconsistent with the general verdict, the court may order judgment appropriate to the answers notwithstanding the verdict, or a new trial, or send the jury back for further deliberation. If the answers are inconsistent with each other, and any is inconsistent with the verdict, the court shall not order judgment, but either send the jury back or order a new trial.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.935 Reference to master. A “master” includes a referee, auditor or examiner. On a showing of exceptional conditions requiring it, the court may appoint a master as to any issues not to be tried to a jury. The clerk shall furnish the master with a copy of the order of appointment.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.936 Compensation. The court shall fix the master’s compensation and order it paid or advanced by such parties, or from such fund or property, as it may deem just. Execution may issue on such order at the master’s demand. The master shall not retain any reports as security for compensation.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.937 Powers. The order may specify or limit the master’s powers or duties, the issue on which a report is to be made, or the time within which a hearing shall be held or a report filed, or specify that the master merely take and report evidence. Except as so limited the master shall have and exercise power to regulate all proceedings before the master; to administer oaths and to do all acts and take all measures appropriate for the efficient performance of the master’s duties; to compel production before the master of any witness or party whom the master may examine, or of any evidence on any matters embraced in the reference, and to rule on admissibility of evidence. The master shall, on request, make a record of evidence offered and excluded. The master may appoint a shorthand reporter whose fees shall be advanced by the requesting party.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.938 Speedy hearing. Upon appointment the master shall notify the parties of the time and place of their first meeting, which shall be within 20 days or such other time as the court’s order may fix. If a party so notified fails to appear, the master may proceed ex parte, or, in the master’s discretion, adjourn to a future day, giving notice thereof to the absent party. It is the duty of the master to proceed with all reasonable diligence; and the court, after notice to the master and the parties, may order the master to expedite proceedings or make a report.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.939 Witnesses. Any party may subpoena witnesses before a master as for trial in open court; and a witness failing to appear or testify without good cause shall be subject to the same punishment and consequences.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.940 Accounts. The master may prescribe the form for submission of accounts which are in issue. In any proper case the master may require or receive in evidence the statement of a certified public accountant who testifies as a witness. If any item submitted or stated is objected to, or shown

insufficient in form, the master may require that a different form be furnished, or that the accounts or any item thereof be proved by oral testimony or written interrogatories of the accounting parties, or in such other manner as the master directs.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.941 Filing report. The master shall file with the clerk the original exhibits, and any transcript of the proceedings and evidence, otherwise a summary thereof, with a report on the matters submitted in the order of reference, including separate findings and conclusions if so ordered. The master may submit a draft of the report to counsel for their suggestions.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.942 Disposition. The clerk shall mail notice of filing the report to all attorneys of record. Within ten days after mailing, unless the court enlarges the time, any party may file written objections to it. Application for action on said report, or objections, shall be heard on such notice as the court prescribes. The report shall have the same effect whether or not the reference was by consent; but where parties stipulate that the master's findings shall be final, only questions of law arising upon the report shall thereafter be considered. The court shall accept the master's findings of fact unless clearly erroneous; and may adopt, reject or modify the report wholly or in any part, or recommit it with instructions.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.943 Voluntary dismissal. A party may, without order of court, dismiss that party's own petition, counterclaim, cross-claim, cross-petition or petition of intervention, at any time up until ten days before the trial is scheduled to begin. Thereafter a party may dismiss an action or that party's claim therein only by consent of the court which may impose such terms or conditions as it deems proper; and it shall require the consent of any other party asserting a counterclaim against the movant, unless that will still remain for an independent adjudication. A dismissal under this rule shall be without prejudice, unless otherwise stated; but if made by any party who has previously dismissed an action against the same defendant, in any court of any state or of the United States, including or based on the same cause, such dismissal shall operate as an adjudication against that party on the merits, unless otherwise ordered by the court, in the interests of justice.

[Report 1943; amendment 1982; amended October 9, 1984, effective December 8, 1984; December 28, 1989, effective July 2, 1990; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.944 Uniform rule for dismissal for want of prosecution.

1.944(1) It is the declared policy that in the exercise of reasonable diligence every civil and special action, except under unusual circumstances, shall be brought to issue and tried within one year from the date it is filed and docketed and in most instances within a shorter time.

1.944(2) All cases at law or in equity where the petition has been filed more than one year prior to July 15 of any year shall be tried prior to January 1 of the next succeeding year. The clerk shall prior to August 15 of each year give notice to counsel of record as provided in rule 1.442 of the docket number, the names of parties, counsel appearing, and date of filing petition. The notice shall state that such case will be subject to dismissal if not tried prior to January 1 of the next succeeding year pursuant to this rule. All such cases shall be assigned and tried or dismissed without prejudice at plaintiff's costs unless satisfactory reasons for want of prosecution or grounds for continuance be shown by application and ruling thereon after notice and not ex parte.

1.944(3) This rule shall not apply to the following cases provided, however, that a finding as to "a" through "e" is made and entered of record:

a. Cases pending on appeal from a court of record to a higher court or under order of submission to the court.

b. Cases in which proceedings subsequent to judgment or decree are pending.

c. Cases which have been stayed pursuant to the Servicemembers Civil Relief Act [50 U.S.C. app. §501].

d. Cases where a party is paying a claim pursuant to written stipulation on file or court order.

e. Cases awaiting the action of a referee, master or other court-appointed officer.

1.944(4) The case shall not be dismissed if there is a timely showing that the original notice and petition have not been served and that the party resisting dismissal has used due diligence in attempting to cause process to be served.

1.944(5) No continuance under this rule shall be by stipulation of parties alone but must be by order of court. Where appropriate the order of continuance shall be to a date certain.

1.944(6) The trial court may, in its discretion, and shall upon a showing that such dismissal was the result of oversight, mistake or other reasonable cause, reinstate the action or actions so dismissed. Application for such reinstatement, setting forth the grounds therefor, shall be filed within six months from the date of dismissal.

[Report 1961; amended by 61GA, ch 487, §2; amendment 1969; amendment 1975; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 25, 2004, effective May 1, 2004]

Rule 1.945 Involuntary dismissal. A party may move for dismissal of any action or claim against the party or for any appropriate order of court, if the party asserting it fails to comply with the rules of this chapter or any order of court. After a party has rested, the adverse party may move for dismissal because no right to relief has been shown, under the law or facts, without waiving the right to offer evidence thereafter.

[Report 1943; amendment 1967; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.946 Effect of dismissal. All dismissals not governed by rule 1.943 or not for want of jurisdiction or improper venue, shall operate as adjudications on the merits unless they specify otherwise.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.947 Costs of previously dismissed action. Where a plaintiff sues on a claim that was previously dismissed against the same defendant in any court of any state or the United States, the court may stay such suit until the costs of the prior action are paid.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.948 to 1.950 Reserved.

B. JUDGMENTS GENERALLY

Rule 1.951 Judgment defined. Every final adjudication of any of the rights of the parties in an action is a judgment.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.952 Partial judgment. A party who succeeds in part only may have judgment expressly for the successful part and against that party as to the rest.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.953 As to some parties only. Where the action involves two or more parties, the court may, in its discretion, and though it has jurisdiction of them all, render judgment for or against some of them only, whenever the prevailing party would have been entitled thereto had the action involved the prevailing party alone, or whenever a several judgment is proper; leaving the action to proceed as to the other parties.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.954 Judgment on the pleadings. After the pleadings a party may move for judgment on the pleadings.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 10, 2009, effective October 9, 2009]

Rule 1.955 On verdict. The clerk must forthwith enter judgment upon a verdict when filed, unless it is special, or the court has ordered the case reserved for future argument or consideration.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.956 Principal and surety; order of liability. A judgment against principal and surety shall recite the order of their liability upon it. A “surety” includes all persons whose liability on the claim is secondary to that of another.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.957 On claim and counterclaim. A claim and counterclaim shall not be set off against each other, except by agreement of both parties or unless required by statute. The court, on motion, may order that both parties make payment into court for distribution, if it finds that the obligation of either party is likely to be uncollectible. If there are multiple parties and separate set-off issues, each set-off issue should be determined independently of the others. The court shall distribute the funds received and declare obligations discharged as if the payment into court by either party had been a payment to the other party and any distribution of those funds back to the party making payment had been a payment to that party by the other party.

[Report 1943; amendment 1984; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.958 Reserved.

Rule 1.959 Entry. All judgments and orders must be entered on the record of the court and clearly specify the relief granted or the order made.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.960 Taxation of costs. When the court fails to assess costs upon disposition of an action, the clerk shall notify the judicial officer of such failure. If the court does not, within ten days of such notification, make an assessment of costs, the clerk shall enter judgment for costs against the party initiating the action.

[Report 1961; November 9, 2001, effective February 15, 2002; June 16, 2003, effective September 1, 2003]

Rule 1.961 Notes surrendered. The clerk shall not, unless by special order of the court, enter or record any judgment based on a note or other written evidence of indebtedness until such note or writing is first filed with the clerk for cancellation.

[Report 1943; amendment 1945; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.962 Affidavit of identity. The clerk shall not enter a personal judgment until the creditor, creditor’s agent or attorney, files an affidavit stating the full name, occupation and residence of the judgment debtor, to affiant’s information and belief. If such residence is in an incorporated place of more than 5,000 population, the affidavit shall include the street number of debtor’s residence and business address, if any. But a judgment entered or recorded without such affidavit shall not be invalid.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.963 to 1.970 Reserved.

C. DEFAULTS AND JUDGMENTS THEREON

Rule 1.971 Default defined. A party shall be in default whenever that party does any of the following:

1.971(1) Fails to serve and, within a reasonable time thereafter, file a motion or answer as required in rule 1.303 or 1.304.

1.971(2) Withdraws a pleading without permission to replead.

1.971(3) Fails to be present for trial.

1.971(4) Fails to comply with any order of court.

1.971(5) Does any act which permits entry of default under any rule or statute.

[Report 1943; Report 1978, effective July 1, 1979; April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.972 Procedure for entry of default.

1.972(1) Entry. If a party not under legal disability or not a prisoner in a reformatory or penitentiary is in default under rule 1.971(1) or 1.971(2), the clerk shall enter that party's default in accordance with the procedures set forth in this rule without any order of court. All other defaults shall be entered by the court.

1.972(2) Application. Requests for entry of default under rule 1.972(1) shall be by written application to the clerk of the court in which the matter is pending. No default shall be entered unless the application contains a certification that written notice of intention to file the written application for default was given after the default occurred and at least ten days prior to the filing of the written application for default. A copy of the notice shall be attached to the written application for default. If the certification is filed, the clerk on request of the adverse party must enter the default of record without any order of court.

1.972(3) Notice.

a. To the party. A copy of the notice of intent to file written application for default shall be sent by ordinary mail to the last known address of the party claimed to be in default. No other notice to a party claimed to be in default is required.

b. Represented party. When a party claimed to be in default is known by the party requesting the entry of default to be represented by an attorney, whether or not that attorney has formally appeared, a copy of notice of intent to file written application for default shall be sent by ordinary mail to the attorney for the party claimed to be in default. This rule shall not be construed to create any obligation to undertake any affirmative effort to determine the existence or identity of counsel representing the party claimed to be in default.

c. Computation of time. The ten-day period specified in rule 1.972(2) shall begin from the date of mailing notice, not the receipt thereof.

d. Form of notice. The notice required by rule 1.972(2) shall be substantially as set forth in rule 1.1901, Form 10.

1.972(4) Applicability. The notice provisions of this rule shall not apply to a default sought and entered in the following cases:

a. Any case prosecuted under small claims procedure.

b. Any forcible entry and detainer case, whether or not placed on the small claims docket.

c. Any juvenile proceeding.

d. Against any party claimed to be in default when service of the original notice on that party was by publication.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.973 Judgment on default. Judgment upon a default shall be rendered as follows:

1.973(1) Where the claim is for a sum certain, or which by computation, can be made certain, the clerk, upon request, shall make such computation as may be necessary, and upon affidavit that the amount is due shall enter judgment for that amount, and costs against the party in default.

1.973(2) In all cases the court on motion of the prevailing party, shall order the judgment to which the prevailing party is entitled, provided notice and opportunity to respond have been given to any party who has appeared, and the clerk shall enter the judgment so ordered. If no judge is holding court in the county, such order may be made by a judge anywhere in the judicial district as provided in rule 1.453. The court may, and on demand of any party not in default shall, either hear any evidence or accounting required to warrant the judgment or refer it to a master; or submit it to a jury if proper demand has been made therefor under rule 1.902.

[Report 1943; Report 1978, effective July 1, 1979; February 1, 1991, effective July 1, 1991; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.974 Notice of default in certain cases. When any judgment other than one in rem has been taken by default against a party served with notice delivered to another person as provided in rule 1.305(1), the clerk shall immediately give written notice thereof, by ordinary mail to such party at that party's last known address, or the address where such service was had. The clerk shall make a record of such mailing. Failure to give such notice shall not invalidate the judgment.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.975 On published service. No personal judgment shall be entered against a person served only by publication or by publication and mailing, as provided in rule 1.311, unless that party has appeared.

[Report 1943; amendment 1951; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.976 Relief in other cases. The judgment may award any relief consistent with the petition and embraced in its issues; but unless the defaulting party has appeared, it cannot exceed what is demanded.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.977 Setting aside default. On motion and for good cause shown, and upon such terms as the court prescribes, but not ex parte, the court may set aside a default or the judgment thereon, for mistake, inadvertence, surprise, excusable neglect or unavoidable casualty. Such motion must be filed promptly after the discovery of the grounds thereof, but not more than 60 days after entry of the judgment. Its filing shall not affect the finality of the judgment or impair its operation.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rules 1.978 to 1.980 Reserved.

D. SUMMARY JUDGMENTS

Rule 1.981 On what claims. Summary judgment may be had under the following conditions and circumstances:

1.981(1) For claimant. A party seeking to recover upon a claim, counterclaim, cross-petition or cross-claim or to obtain a declaratory judgment may, at any time after the appearance day or after the filing of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in that party's favor upon all or any part thereof.

1.981(2) For defending party. A party against whom a claim, counterclaim, cross-petition or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in that party's favor as to all or any part thereof.

1.981(3) Motion and proceedings thereon. The motion shall be filed not less than 60 days prior to the date the case is set for trial, unless otherwise ordered by the court. Any party resisting the motion shall file a resistance within 15 days, unless otherwise ordered by the court, from the time when a copy of the motion has been served. The resistance shall include a statement of disputed facts, if any, and a memorandum of authorities supporting the resistance. If affidavits supporting the resistance are filed, they must be filed with the resistance. Notwithstanding the provisions of rules 1.431 and 1.435, the time fixed for hearing or nonoral submission shall be not less than 20 days after the filing of the motion, unless a shorter time is ordered by the court. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. If summary judgment is rendered on the entire case, rule 1.904(2) shall apply.

1.981(4) Case not fully adjudicated on motion. If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

1.981(5) Form of affidavits; further testimony; defense required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or filed therewith. The court may permit affidavits to be supplemented or opposed

by depositions, answers to interrogatories, further affidavits, or oral testimony. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials in the pleadings, but the response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered.

1.981(6) *When affidavits are unavailable.* Should it appear from the affidavits of a party opposing the motion that the party for reasons stated cannot present by affidavit facts essential to justify the opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

1.981(7) *Affidavits made in bad faith.* Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused that party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

1.981(8) *Supporting statement and memorandum.* Upon any motion for summary judgment pursuant to this rule, there shall be annexed to the motion a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried, including specific reference to those parts of the pleadings, depositions, answers to interrogatories, admissions on file and affidavits which support such contentions and a memorandum of authorities. [Report 1943; amendment 1967; amendment 1975; amendment 1980; July 15, 1991, effective January 2, 1992; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.982 On motion in other cases.

1.982(1) 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 or other officers for money or property collected by them; and in all other cases specially authorized by statute.

1.982(2) A judgment for contribution based on comparative fault may be obtained on motion 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 only by or against the persons who were parties to that action at the time said findings were made.

1.982(3) 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.

1.982(4) 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.

[Report 1943; amended February 21, 1985, effective July 1, 1985; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.983 Procedure. If a motion under rule 1.982 is filed in an action already pending, the procedure shall be as in rule 1.981. Otherwise, the motion shall be served on the party against whom relief is sought, together with notice of the time and place of hearing. Service shall be made at least ten days before the date set for hearing. The court shall hear the motion at the time fixed in the notice without further pleadings and give judgment accordingly.

[Report 1943; amendment 1967; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.984 to 1.1000 Reserved.

DIVISION X
PROCEEDINGS AFTER JUDGMENT

Rule 1.1001 Bill of exceptions.

1.1001(1) *When necessary.* A bill of exceptions shall be necessary only to show material portions of the record of the cause not shown by the court files, entries, or legally certified shorthand notes of the trial, if any.

1.1001(2) *Affidavits.* Not more than five affidavits in support of any exception may be filed with the bill. Controverting affidavits, not exceeding five, may be filed within seven days thereafter. The court, for good cause shown, may extend the time for filing such affidavits.

1.1001(3) *Certification; judge; bystanders.* The proposed bill of exceptions shall be promptly presented to the trial judge, who shall sign it if it fairly presents the facts. If the judge refuses, and counsel so certifies, and at least two bystanders attest in writing that the exceptions are correctly stated, the bill thus certified and attested shall be filed and become part of the record.

1.1001(4) *Disability.* Whenever the judge or master who tried the cause is for any reason unable to sign a bill of exceptions or certify the shorthand reporter's record, the same may be done by a successor, or by any judge of the court in which the proceeding was pending.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1002 New trial defined. A new trial is the reexamination in the same court of any issue of fact or part thereof, after a verdict, or master's report, or a decision of the court.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.1003 Judgment notwithstanding verdict. On motion, any party may have judgment in that party's favor despite an adverse verdict, or the jury's failure to return any verdict under any of the following circumstances:

1.1003(1) If the pleadings of the adverse party fail to allege some material fact necessary to constitute a complete claim or defense and the motion clearly specifies such failure.

1.1003(2) If the movant was entitled to a directed verdict at the close of all the evidence, and moved therefor, and the jury did not return such verdict, the court may then either grant a new trial or enter judgment as though it had directed a verdict for the movant.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1004 New trial. On motion, the aggrieved party may have an adverse verdict, decision, or report or some portion thereof vacated and a new trial granted if any of the following causes materially affected movant's substantial rights:

1.1004(1) Irregularity in the proceedings of the court, jury, master, or prevailing party; or any order of the court or master or abuse of discretion which prevented the movant from having a fair trial.

1.1004(2) Misconduct of the jury or prevailing party.

1.1004(3) Accident or surprise which ordinary prudence could not have guarded against.

1.1004(4) Excessive or inadequate damages appearing to have been influenced by passion or prejudice.

1.1004(5) Error in fixing the amount of the recovery, whether too large or too small, in an action upon contract or for injury to or detention of property.

1.1004(6) That the verdict, report or decision is not sustained by sufficient evidence, or is contrary to law.

1.1004(7) Material evidence, newly discovered, which could not with reasonable diligence have been discovered and produced at the trial.

1.1004(8) Errors of law occurring in the proceedings, or mistakes of fact by the court.

1.1004(9) On any ground stated in rule 1.1003, the motion specifying the defect or cause giving rise thereto.

[Report 1943; amendment 1945; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1005 Motion; affidavits. Motions under rules 1.1003 and 1.1004 shall be in writing; and if based on grounds stated in rule 1.1004(2), 1.1004(3), or 1.1004(7) may be sustained and controverted by affidavits and heard pursuant to rule 1.431(6).

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1006 Stay. If motions under rule 1.1003 or 1.1004 or a petition under rule 1.1012 are timely filed, the court may, in its discretion and on such terms, if any, as it deems proper order a stay of any or all further proceedings, executions or process to enforce the judgment, pending disposition of such motion or petition.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.1007 Time for motions and exceptions. Motions under rules 1.1003 and 1.1004 and bills of exception under rule 1.1001 must be filed within fifteen days after filing of the verdict, report or decision with the clerk or discharge of a jury which failed to return a verdict, unless the court, for good cause shown and not ex parte, grants an additional time not to exceed 30 days. Resistances and replies may be filed and supporting briefs may be served as provided in rules 1.431(4) and 1.431(5). [Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 4, 2010, effective October 4, 2010]

Rule 1.1008 Conditional rulings on grant of motion.

1.1008(1) Any motion may be filed under rule 1.1003 or 1.1004 without waiving the right to file or rely on any other of such motions.

1.1008(2) Not later than fifteen days after entry of a judgment notwithstanding the verdict, the party whose verdict has been set aside may file a motion for new trial pursuant to rule 1.1004.

1.1008(3) If a motion for judgment notwithstanding the verdict is granted, the court shall also rule on any motion for new trial by determining whether it should be granted if the judgment is thereafter vacated or reversed, and shall specify the grounds for granting or denying the motion for new trial. If a motion for new trial is thus conditionally granted, the order thereon does not affect the finality of the judgment. If a motion for new trial has been conditionally granted and the judgment is reversed on appeal, the new trial shall proceed unless otherwise ordered by the appellate court. If a motion for new trial has been conditionally denied, the appellee may assert error in that denial; and if the judgment is reversed on appeal, subsequent proceedings shall be in accordance with the order of the appellate court.

[Report 1943; amendment 1953; amendment 1973; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; August 4, 2010, effective October 4, 2010]

Rule 1.1009 Issues tried by consent; amendment. In deciding motions under rule 1.1003 or 1.1004, the court shall treat issues not embraced in the pleadings but actually tried by express or implied consent of the parties as though they had been pleaded. Either party may then amend to conform the party's pleadings to such issues and the evidence upon them; but failure so to amend shall not affect the result of the trial.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1010 Conditional new trial.

1.1010(1) The district court may permit a party to avoid a new trial under rule 1.1003 or 1.1004 by agreeing to such terms or conditions as it may impose, which shall then be shown of record and a judgment entered accordingly.

1.1010(2) If the term or condition imposed is a choice between consenting to a reduced, modified or increased judgment amount or proceeding to a new trial, regardless of whether imposed by the district court or an appellate court, then the choice shall be made by filing a written consent to the reduced, modified or increased judgment with the clerk of the district court in which the case was tried within the following times:

a. If imposed by the district court, on or before seven days before the date when an appeal must be taken pursuant to Iowa R. App. P. 6.101.

b. If imposed by an appellate court, on or before 30 days after the date the procedendo is filed with the district court.

If such a written consent is not filed within these time periods, then the new trial imposed as the other choice shall be deemed ordered automatically.

1.1010(3) In the event of an appeal any such term or condition or judgment entered pursuant to district court order shall be deemed of no force and effect and the original judgment entered pursuant to rule 1.955 shall be deemed reinstated.

[Report 1943; amendment 1953; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1011 Retrial after published notice.

1.1011(1) *Retrial.* Except in actions for dissolution of marriage and annulment of marriage, if judgment is entered against a defendant who did not appear and was served only by publication or by publication and mailing, as provided in rule 1.311, the defendant may apply for retrial within six months after entry of judgment, and on giving security for costs is then entitled to a defense and trial as though there was no judgment.

1.1011(2) *New judgment.* After such retrial, the court may confirm the judgment, modify or set it aside and order a party to restore any money or property remaining in the party's possession under it, or to repay the value of any money or property the party thus received.

[Report 1943; amendment 1951; Report 1978, effective July 1, 1979; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1012 Grounds for vacating or modifying judgment. Upon timely petition and notice under rule 1.1013 the court may correct, vacate or modify a final judgment or order, or grant a new trial on any of the following grounds:

1.1012(1) Mistake, neglect or omission of the clerk.

1.1012(2) Irregularity or fraud practiced in obtaining it.

1.1012(3) Erroneous proceedings against a minor or person of unsound mind, when such errors or condition of mind do not appear in the record.

1.1012(4) Death of a party before entry of the judgment or order, and its entry without substitution of a proper representative.

1.1012(5) Unavoidable casualty or misfortune preventing the party from prosecuting or defending.

1.1012(6) Material evidence, newly discovered, which could not with reasonable diligence have been discovered and produced at the trial, and was not discovered within the time for moving for new trial under rule 1.1004.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

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.

[Report 1943; amended February 1, 1989, effective May 1, 1989; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; May 26, 2010, effective July 24, 2010]

Rule 1.1014 Disposition of exhibits. One year after the final determination of a case, the clerk may destroy all exhibits filed provided that counsel of record are notified in writing that the exhibits will

be destroyed unless receipted for within 60 days thereafter. The clerk may destroy all trial exhibits without notice two years after final determination of the case.

[Report 1965; January 2, 1996, effective March 1, 1996; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1015 Titles and liens protected.

1.1015(1) The title of a good faith purchaser to property sold under the original judgment shall not be affected or impaired by any judgment, order or proceeding under rules 1.1011 through 1.1013.

1.1015(2) If the original judgment is merely modified pursuant to any of said rules, all liens or securities obtained under it shall be preserved in the modified judgment.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1016 Judgment discharged on motion. Where matter in discharge of a judgment has arisen since its entry, the defendant or any interested person may, on motion, have the same discharged in whole or in part, according to the circumstances.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1017 Fraudulent assignment; motion. The court may, on motion, inquire into the assignment of a judgment, or its entry to the use of any party, and cancel the assignment or strike out such use, in whole or in part, whenever it determines the same to be inequitable, fraudulent or done in bad faith.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.1018 Execution; duty of officer. An officer receiving an execution must execute it with diligence. The officer shall levy on such property of the judgment debtor as is likely to bring the exact amount, as nearly as practicable. The officer may make successive levies if necessary. The officer shall collect the things in action, by suit in the officer's own name if need be, or sell them. The officer shall sell sufficient property levied on and garnish sufficient funds, or property of sufficient value, to satisfy the execution, paying the proceeds, less the officer's own costs, to the clerk.

[Report 1943; 1992 Iowa Acts, ch 1044, §1, effective July 1, 1992; November 9, 2001, effective February 15, 2002]

Rule 1.1019 Endorsement. The officer shall endorse on the execution, the day and hour the officer receives it; and the levy, sale, or other act done by virtue of it, with the date thereof; and the date and amount of any receipts or payments toward its satisfaction. Each endorsement shall be made at the time of the act or receipt; but no levy or sale under the execution shall be impaired by failure to make any such endorsement at the time here provided.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1020 Levy on personalty. Levy on personalty may be made under an attachment or general execution by either of the following methods, but no lien is created until compliance with one of them.

1.1020(1) By the officer taking possession of the property, and signing and appending to the execution its exact description at length, with the date of the levy.

1.1020(2) If the creditor or the creditor's agent first so requests in writing, the officer may view the property, prepare a written inventory of its exact description at length, and append the inventory to the execution, with the officer's signed statement of the number and title of the case, the names of the debtor and judgment creditor, the amount claimed under the execution, the exact location of the property and in whose possession, and the last known address of the judgment debtor. A certified transcript of the inventory and statement shall be filed with the secretary of state. Such filing shall be accepted by the secretary of state and shall be marked, indexed and certified in the same manner as a financing statement, and shall be constructive notice of the levy to all persons. If the writ is satisfied or the levy discharged the officer shall file a termination statement with the secretary of state. The fees normally charged by the secretary of state for the filing of a financing statement and the filing of a termination statement shall be paid by the officer and shall be taxed as a part of the costs of the levy.

[Report 1943; amendment 1967; amendment 1975; October 31, 1997, effective January 24, 1998; July 27, 2001, effective October 1, 2001; November 9, 2001, effective February 15, 2002]

Rules 1.1021 to 1.1100 Reserved.

DIVISION XI
DECLARATORY JUDGMENTS

Rule 1.1101 Declaratory judgments permitted. Courts of record within their respective jurisdictions shall declare rights, status, and other legal relations whether or not further relief is or could be claimed. It shall be no objection that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form or effect, and such declarations shall have the force and effect of a final decree. The existence of another remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The enumeration in rules 1.1102, 1.1103, and 1.1104, does not limit or restrict the exercise of this general power.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1102 Construing contracts, etc. Any person interested in an oral or written contract, or a will, or whose rights, status or other legal relations are affected by any statute, municipal ordinance, rule, regulation, contract or franchise, may have any question of the construction or validity thereof or arising thereunder determined, and obtain a declaration of rights, status or legal relations thereunder.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1103 Before or after breach. A contract may be construed either before or after a breach.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1104 Fiduciaries, beneficiaries and others. Any person interested as or through an executor, administrator, trustee, guardian, conservator or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust, in the administration of a trust or the estate of a decedent, insolvent, an infant or other person for whom a guardian, or conservator has been appointed, may obtain a declaration of rights or legal relations for any of the following reasons:

1.1104(1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others.

1.1104(2) To direct executors, administrators, guardians, conservators, trustees or other fiduciaries, to do or abstain from doing any particular act in their fiduciary capacity.

1.1104(3) To determine any question arising in the administration of the estate, guardianship, conservatorship or trust, including questions of construction of wills and other writings.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1105 Discretionary. The court may refuse to render a declaratory judgment or decree where it would not, if rendered, terminate the uncertainty or controversy giving rise to the proceeding.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.1106 Supplemental relief. Supplemental relief based on a declaratory judgment may be granted wherever necessary or proper. The application for relief shall be by petition in the original case. If the court deems the petition sufficient, it shall, on such reasonable notice as it prescribes, require any adverse party whose rights have been adjudicated to show cause why such relief should not be granted.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1107 Review. All orders, judgments or decrees under rules 1.1101 through 1.1106 may be reviewed as other judgments, orders or decrees.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.1108 Jury trial. The right of trial by jury shall not be abridged or extended by rules 1.1101 through 1.1107.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.1109 “Person.” For purposes of this division, “person” shall include any individual or entity capable of suing or being sued under the laws of Iowa.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rules 1.1110 to 1.1200 Reserved.

DIVISION XII
PARTITION OF REAL AND PERSONAL PROPERTY

Rule 1.1201 The action.

1.1201(1) Real or personal property may be partitioned by equitable proceedings.

1.1201(2) Property shall be partitioned by sale and division of the proceeds, unless a party prays for partition in kind by its division into parcels, and shows that such partition is equitable and practicable. But personalty which is subject to any lien on the whole or any part can be partitioned only by sale.

1.1201(3) When partition can be conveniently made of part of the premises but not of all, one portion may be partitioned and the other sold, as provided in the rules in this division.

1.1201(4) Real and personal property owned by the same persons may be partitioned in the same action. The same referee may act as to both real and personal property.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1202 Pending probate. Where the entire interest in real estate is owned by a decedent on whose estate administration or probate is pending, the action cannot be brought until four months after the second publication of the notice of the appointment of the personal representative, or at any time while an application for authority to sell such real estate is pending in the probate proceeding.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1203 Petition and answer.

1.1203(1) The petition shall describe the property and plaintiff's interest in it. It shall name all indispensable parties as defined in rule 1.1205(1), and state the nature and extent of each interest or lien, all so far as is known.

1.1203(2) The answers of the defendants must state the amount and nature of their respective interests. They may deny the interest of any plaintiff, and by supplemental pleading, if necessary, may deny the interest of any other defendant.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1204 Abstracts, plats, and surveys. The court may order the filing of a complete abstract covering any real estate involved. The court may require any party to produce any abstract in the party's possession or control, and plaintiff to complete the same or supply the whole if no part is available. The expense shall be taxed as costs. The abstracts shall be available for use of the court or any party during the proceedings. A like order may be made as to plats and surveys.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1205 Parties.

1.1205(1) Indispensable parties. All owners of undivided interests, and all holders of liens against less than the entire property are indispensable parties to any partition. All holders of any liens on personal property are indispensable to its partition.

1.1205(2) Optional parties. Other persons having actual, apparent, claimed or contingent interests, and holders of liens on the entire real estate may be made parties.

1.1205(3) Interests of unborn persons. The court shall have jurisdiction over an unborn person's contingent or a prospective vested interest as a cotenant of real estate. The court shall appoint a suitable guardian ad litem to act for such person in the partition proceeding. Rules 1.210 through 1.212 shall apply in such cases. The decree of partition and the division or sale thereunder shall have the same force and effect as to all such persons, or persons claiming by, through or under them, as though they were in being when the decree was entered, and the property or proceeds of the person's interest shall be subject to the order of the court until the right fully vests.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1206 Early hearing for partition of personal property. Upon application after a petition for partition of personal property only is filed, the court may set the petition for hearing at any specified time and place in the judicial district on not less than five days' personal service of original notice on all defendants.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1207 Joinder and counterclaim. Except as permitted by this rule there shall be no joinder of any other claim and no counterclaim. Any party may perfect or quiet title to the property, or have an adjudication of the rights of any or all parties as to any or all matters growing out of or connected with the property, including liens between them.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1208 Jurisdiction of property or proceeds. The property or its proceeds shall be subject to the order of the court until the right becomes fully vested.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1209 Proceeds of sale. After a sale, all parties, including holders of liens from which the property has been freed by the sale, shall have the same rights or interests in the proceeds as they had in the property sold, subject to a prior charge for costs.

The court shall appoint a trustee or make other suitable provision for the proceeds of any share held for life or years or in remainder. The ascertained share of any absent owner shall be retained, or the proceeds invested for the owner's benefit, under like order.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1210 Decree. The decree shall establish the shares and interests of the owners in the property. A decree for partition in kind shall appoint three referees unless the parties agree on a smaller number. A decree ordering a sale shall appoint one or more referees, and three disinterested freeholders to appraise the property, and may direct either a public or private sale. All other matters involved in the cause, including those relating to liens, may be determined by the same decree or later supplemental decree or decrees.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1211 Liens. The court shall decide the nature, extent, priority or validity of any party's lien, not previously determined, on notice to the interested parties by the referees as the court prescribes, and upon issues as the court directs. Such adjudication shall precede a partition in kind. The pendency of any such controversy shall not delay a sale or distribution of the proceeds to any party not affected by the lien.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1212 Sale free of liens. Personal property shall be sold free of all liens. Real property shall be sold free of all liens, except those held against the entire property sold.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1213 Possession and preservation of property. The court may order the referee to lease or take possession of any property involved in the action. The court may order the property preserved by injunction or by other appropriate provision for its care and custody. Expenses incurred under this rule and allowed by the court shall be part of the costs.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1214 Referees to divide; oath. Referees authorized to make partition in kind shall qualify by taking an oath and need give no bond.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1215 Partition in kind; marking parcels. Referees who partition real estate in kind shall mark out each parcel by visible monuments, and file a report thereof. Referees may employ a surveyor or assistants to aid them, if necessary, whose fees and expenses, when allowed by the court, shall be part of the costs.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1216 Specific allotment. For good reasons shown, the court may order referees making a partition in kind to allot a particular tract or article to a particular party.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1217 Report of referees; notice and hearing.

1.1217(1) Referees shall file a report of their proposed partition in kind, describing with reasonable particularity the respective shares and the specific property allotted to each owner, with a plat of any real estate involved. The court shall promptly fix a time and place for a hearing, and the referee shall give at least ten days' notice thereof in such manner as the court directs. On hearing, the court may approve, modify or disapprove the report, and refer it to the same or different referees or order a sale.

1.1217(2) Referees shall report their inability to make a division to the court. The court shall order a sale of personal property without further notice. As to real estate, the report shall be heard under rule 1.1217(1). On hearing, the court may make any further decree of sale or otherwise as may be proper under the exigencies of the case.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1218 Partition in kind; decree; apportioning costs; recording.

1.1218(1) *Decree; costs.* On approving a partition in kind, the court shall enter a decree allotting the property or share set off to each party, apportioning the costs among the allottees and entering judgment against them for their individual shares thereof, which shall be liens on the respective allotments, and for which special execution may issue on demand of anyone interested.

1.1218(2) *Recording.* The clerk shall file with the recorder of each county where any of the real estate lies, a certified transcript of so much of the decree as shows the book and page where it is recorded, the confirmation of the shares and interests in the property apportioned, the names of the parties found entitled to share therein, and an accurate description of each parcel allotted to each several owner. Such transcript shall be presented to the county auditor for transfer, recorded in the deed records, and indexed as a conveyance of each parcel, with the name of the allottee as grantee and names of all other parties as grantors. The costs of making and recording such transcript shall be assessed as part of the costs in the case.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1219 Referees to sell; oath; bond. A sale referee shall qualify by taking an oath. No bond shall be required before the referee conveys real estate unless the referee is to sell personal property, take possession of real estate, or receive a payment on the sale before conveyance, in which case, the referee shall give such bond as the court directs. Before conveying real estate, the referee shall give bond for 125 percent of the total sale price, payable to the parties entitled to the proceeds, conditioned for the faithful discharge of the referee's duties in connection with the sale and its proceeds.

[Report 1943; amendment 1945; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1220 Notice and expense of sale.

1.1220(1) *Notice of public sale.* The referees shall give notice of the time and place of any public sale by two publications, at least six days apart, in some newspaper of general circulation in the county where the sale is to be held. The last publication shall be at least seven days prior to a sale of real estate and at least four days prior to a sale of personal property.

1.1220(2) *Expense.* If authorized by the court, referees may advertise the sale beyond the required notice, or employ an auctioneer, clerk or assistant. When allowed by the court the expense thereof shall be part of the costs.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1221 Report of sale; notice.

1.1221(1) *Generally.* The referees shall report all proposed sales to the court, which in its discretion, may require a hearing thereon at a specified time and place. The referee shall mail notice of the hearing as directed by the court to all parties requesting notice pursuant to rule 1.1221(2) at the addresses shown in the requests within the time prescribed by the court and shall give such notice to other parties as the court may direct.

1.1221(2) *Request for notice.* Notice and hearing must be accorded to any party who, before the report is approved, files with the clerk, a duplicate request therefor, bearing the party's name and the address to which notice is to be sent. The clerk shall docket the request, and transmit the copy to any referee forthwith, or if none has been appointed, then as soon as appointment is made.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1222 Approval or disapproval of sale; conveyance; security.

1.1222(1) The court may dispense with approval of a public sale of personal property, which may then be sold on full payment of the price bid. All other sales shall be subject to the approval of the court. The court by express order may approve a private sale though it be for less than the appraised value.

1.1222(2) No real estate shall be conveyed until the sale is approved by the court. No conveyance shall be made until the price is fully paid.

1.1222(3) If the sale is disapproved, the money paid and the securities given must be returned to the persons entitled thereto.

1.1222(4) The court in its discretion may require all or any of the parties, before they receive the monies arising from any sale, to give satisfactory security to refund the same, with interest, in case it afterward appears such parties were not entitled thereto.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1223 Validity of deed. A referee's deed, recorded in the county where the land lies, shall be valid against all subsequent purchasers, and against all persons interested at the time, who were parties to the proceeding.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1224 Costs. All costs shall be advanced by the plaintiff, but eventually paid by all parties proportionately to their interests. Costs created by contests shall be taxed against the losing contestant unless otherwise ordered. If partition is in kind, costs shall be adjudged, and may be collected as provided in rule 1.1218(1). If partition is by sale, the costs shall be paid from the proceeds and deducted from the shares of the parties against whom they are taxed. These remedies for collecting costs shall be cumulative of other remedies.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

[See rule 1.1225]

Rule 1.1225 Attorney fees. On partition of real estate, but not of personal property, the court shall fix, and tax as costs, a fee in favor of plaintiff's attorney, in a reasonable amount, to be determined by the court.

[Report 1943; amendment 1955; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1226 Other fees. Appraisers and referees in all partition suits, and any attorney employed by a referee with approval of the court, shall receive such reasonable compensation as the court allows, which shall be part of the costs.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1227 Final reports. Unless waived in writing by all interested parties, the court shall fix a time and place of hearing the referee's final report, and prescribe the time and manner of notice which the referee shall give to all interested persons.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1228 Paying small sums for minor. Whenever a minor for whom no conservator has been appointed is entitled to proceeds of a partition sale in an amount not exceeding \$10,000, the court may order the proceeds paid to the minor's parent or natural guardian, or the person with whom the minor resides, for the use of such minor. The written receipt of such person, when filed with the court, shall discharge the referee of all liability for the proceeds.

[Report 1943; amendment 1961; amendment 1973; May 24, 1988, effective August 1, 1988; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rules 1.1229 to 1.1300 Reserved.

DIVISION XIII
QUO WARRANTO

Rule 1.1301 For what causes. A civil action in the nature of quo warranto, triable by equitable proceedings, may be brought in the name of the state against any defendant who is any of the following:

1.1301(1) Unlawfully holding or exercising any public office or franchise in Iowa, or an office in any Iowa corporation.

1.1301(2) A public officer who has done or suffered to be done, an act which works a forfeiture of the office.

1.1301(3) Acting as a corporation in Iowa without being authorized by law so to act.

1.1301(4) A corporation exercising powers not conferred by law, or doing or omitting acts, which work a forfeiture of its corporate rights or privileges.

1.1301(5) A person or corporation claiming under a patent, permit, certificate of convenience and necessity or license of any nature which was granted by the state because of fraud, or mistake or ignorance of a material fact, or the terms of which have expired or been violated by the defendant, or which the defendant has in any manner forfeited. The action in such cases shall be to annul or vacate the patent, permit, certificate or license in question.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1302 By whom brought.

1.1302(1) The county attorney of the county where the action lies has discretion to bring the action, but must do so when directed by the governor, general assembly or the supreme or district court, unless the county attorney may be a defendant, in which event the attorney general may, and shall when so directed, bring the action.

1.1302(2) If on demand of any citizen of the state, the county attorney fails to bring the action, the attorney general may do so, or such citizen may apply to the court where the action lies for leave to bring it. On leave so granted, and after filing bond for costs in an amount fixed by the court, with sureties approved by the clerk, the citizen may bring the action and prosecute it to completion.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1303 No joinder or counterclaim. In such action there shall be no joinder of any other claim, and no counterclaim.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1304 Petition. The petition shall state the grounds on which the action is brought, and if it involves an office, franchise or right claimed by others than the defendant, it shall name them; and they may be made parties.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.1305 Judgment.

1.1305(1) The judgment shall determine all rights and claims of all parties respecting the matters involved, and shall include any provision necessary to enforce their rights as so determined, or to accomplish the objects of the decision.

1.1305(2) The judgment shall also determine which party, if any, is entitled to hold any office in controversy.

1.1305(3) If a party is unlawfully holding or exercising any office, franchise or privilege, or if a corporation has violated the law by which it exists or been guilty of any act or omission which amounts to a surrender or forfeiture of its privileges, the judgment shall remove the party from office or franchise, or forfeit the privilege, and forbid the party to exercise or use any such office, franchise or privilege.

1.1305(4) If a party has merely exercised powers or privileges to which that party was not entitled, but which does not warrant forfeiture under the law, the judgment shall prohibit that party from the further exercise thereof.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1306 Costs.

1.1306(1) Judgment against any defendant or intervenor shall include judgment for the costs of the action. Judgment against a pretended corporation shall assess the costs against the person or persons acting as such.

1.1306(2) If the action fails, the court may assess the costs against any private individual who brought it; otherwise they shall be paid as provided by the statutes governing costs in criminal cases. [Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1307 Corporation dissolved. If the judgment dissolves a corporation, the court shall make appropriate orders for the dissolution as provided by the statutes in force.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rules 1.1308 to 1.1400 Reserved.

**DIVISION XIV
CERTIORARI**

Rule 1.1401 Certiorari petition. A party may commence a certiorari action when authorized by statute or when the party claims an inferior tribunal, board, or officer, exercising judicial functions, or a judicial magistrate exceeded proper jurisdiction or otherwise acted illegally.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1402 Procedure.

1.1402(1) Title. The petition shall be captioned in the name of the petitioner as plaintiff, against the inferior tribunal, board or officer as defendant.

1.1402(2) Nature of proceeding. The action shall be by ordinary proceedings, so far as applicable.

1.1402(3) Time for filing. The petition must be filed within 30 days from the time the tribunal, board or officer exceeded its jurisdiction or otherwise acted illegally. An extension of such time, however, may be allowed by the reviewing court upon a showing that failure to file the petition within the time provided was due to a failure of the tribunal, board or officer to notify the petitioner of the challenged decision. Any motion for extension of time shall be filed with the clerk of the court in which the writ of certiorari is sought within 90 days of the challenged decision. The motion and any resistance may be supported by copies of relevant portions of the record of the proceedings being challenged, and by affidavits, and no other form of evidence will be received.

[Report 1943; amendment 1973; amended July 18, 1984, effective September 17, 1984; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1403 Other remedies. The writ shall not be denied or annulled because plaintiff has another plain, speedy or adequate remedy; but the relief by way of certiorari shall be strictly limited to questions of jurisdiction or the legality of the challenged acts, unless otherwise provided by statute.

[Report 1943; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1404 The writ. A district court judge may order the issuance of a writ to an inferior tribunal, board, or officer, or to a judicial magistrate. The writ shall be issued by the clerk of the court where the petition is filed, under its seal. It shall command the defendant to certify to that court, at a specified time and place, a transcript of so much of the defendant's records and proceedings as are pertinent to the petition, together with the facts of the case, described with reasonable certainty.

[Report 1943; Report 1978; effective July 1, 1979; amendment 1982; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1405 Stay, bond. The court may stay the original proceedings even though no stay is requested. If the court grants the plaintiff's request for a stay, the stay may be conditioned upon the plaintiff's filing of a bond with penalty and conditions, including security for costs, as prescribed by the court and with sureties approved by the court or the clerk.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1406 Notice of issuing writ. The court may issue the writ without notice upon the filing of the petition, or it may fix a time and place for hearing and prescribe reasonable notice to the defendant. If the petition is filed before a final order or decree in the original proceeding or if the plaintiff seeks a stay, the court shall fix a time and place for hearing and prescribe reasonable notice to the defendant before issuing the writ. Any hearing shall be confined to the sufficiency of the petition, what records or proceedings shall be certified, and the terms of any bond to be given.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1407 Service of writ. The writ shall be served by a sheriff or deputy sheriff, unless the defendant accepts service of the writ. If the writ is issued to a magistrate, service shall be on the magistrate or clerk of that court; if issued to a board or other tribunal, it shall be served on its secretary, clerk, or any member. Service shall be by delivery of the original writ. A copy, with return of service, shall be returned to the clerk of the court issuing the writ.

[Report 1943; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1408 Return to writ, by whom. If the writ is issued to a magistrate, the return shall be made and signed by the magistrate whose decision is challenged, if practicable, otherwise by the clerk of that court. If issued to an officer, the officer shall make and sign the return. If issued to a board or tribunal, the return shall be made and signed by its presiding officer, clerk, or secretary.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1409 Defective return. If the return is defective, the court issuing the writ, on the court's own motion or that of any party, may order a further return. The court may compel obedience to the writ or to such order by attachment or citation for contempt.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1410 Hearing. When full return has been made, the court shall fix a time and place for hearing. In addition to the record made by the return, the court may receive any transcript or recording of the original proceeding and such other oral or written evidence explaining the matters contained in the return. Unless otherwise specially provided by statute, such transcript, recording, or additional evidence shall be considered only to determine the legality of the proceedings or the sufficiency of the evidence before the original tribunal, board, officer, or magistrate.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1411 Judgment. Unless otherwise provided by statute, the judgment on certiorari shall be limited to annulling the writ or to sustaining it, in whole or in part, to the extent the proceedings below were illegal or in excess of jurisdiction. The judgment shall prescribe the manner in which either party may proceed, and shall not substitute a different or amended decree or order for that being reviewed.

[Report 1943; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rule 1.1412 Appeal. An appeal from an order or judgment of the district court in a certiorari proceeding is governed by the rules of appellate procedure applicable to appeals in ordinary civil actions. An appeal is discretionary when the order or judgment sought to be reviewed is itself a discretionary review of another tribunal, board, officer, or magistrate.

[Report 1943; December 28, 1993, effective March 1, 1994; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

Rules 1.1413 to 1.1500 Reserved.

DIVISION XV INJUNCTIONS

Rule 1.1501 Independent or auxiliary remedy. An injunction may be obtained as an independent remedy by an action in equity, or as an auxiliary remedy in any action. In either case, the party

applying therefor may claim damages or other relief in the same action. An injunction may be granted as part of the judgment; or may be granted by order at any prior stage of the proceedings, and is then known as a temporary injunction.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.1502 Temporary; when allowed. A temporary injunction may be allowed under any of the following circumstances:

1.1502(1) When the petition, supported by affidavit, shows the plaintiff is entitled to relief which includes restraining the commission or continuance of some act which would greatly or irreparably injure the plaintiff.

1.1502(2) Where, during the litigation, it appears that a party is doing, procuring or suffering to be done, or threatens or is about to do, an act violating the other party's right respecting the subject of the action and tending to make the judgment ineffectual.

1.1502(3) In any case specially authorized by statute.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1503 Endorsing refusal. A court, or justice of the supreme court, refusing a temporary injunction shall endorse the refusal on the petition therefor.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.1504 Statement re prior presentation. A petition seeking a temporary injunction shall state, or the attorney shall certify thereon, whether a petition for the same relief, or part thereof, has been previously presented to and refused by any court or justice, and if so, by whom and when.

[Report 1943; November 9, 2001, effective February 15, 2002]

Rule 1.1505 Place for filing. A request for a temporary injunction shall be filed in the county where the action is, or will be, pending.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1506 By whom granted. A temporary injunction may be granted by any of the following:

1.1506(1) A judge of the district in which the action is or will be pending.

1.1506(2) The supreme court or a justice thereof.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1507 Notice. Before granting a temporary injunction, the court may require reasonable notice of the time and place of hearing therefor to be given the party to be enjoined. When the applicant is requesting that a temporary injunction be issued without notice, applicant's attorney must certify to the court in writing either the efforts which have been made to give notice to the adverse party or that party's attorney or the reason supporting the claim that notice should not be required. Such notice and hearing must be had for a temporary injunction or stay of agency action pursuant to Iowa Code section 17A.19(5), to stop the general and ordinary business of a corporation, or action of an agency of the state of Iowa, or the operations of a railway or of a municipal corporation, or the erection of a building or other work, or the board of supervisors of a county, or to restrain a nuisance.

[Report 1943; amended October 9, 1984, effective December 8, 1984; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1508 Bond. The order directing a temporary injunction must require that before the writ issues, a bond be filed, with a penalty to be specified in the order, which shall be 125 percent of the probable liability to be incurred. Such bond with sureties to be approved by the clerk shall be conditioned to pay all damages which may be adjudged against the petitioner by reason of the injunction. But in actions for dissolution of marriage, separate maintenance, annulment of marriage, or domestic abuse, the court in its discretion may waive any bond, or fix its penalty in any amount deemed just and reasonable.

[Report 1943; Report 1978, effective July 1, 1979; amendment 1981; November 9, 2001, effective February 15, 2002]

Rule 1.1509 Hearing to dissolve temporary injunction. A party against whom a temporary injunction is issued without notice may, at any time, move the court where the action is pending to

dissolve, vacate or modify it. Such motion shall be submitted to that court. A hearing shall be held within ten days after the filing of the motion.

[Report 1943; amendment 1984; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

COMMENT ON AMENDMENTS TO RULES 1.1505, 1.1506, 1.1507, AND 1.1509: Concern has been raised regarding the issuance of temporary injunctions without a hearing or notice to the adverse party, and the subsequent difficulty in scheduling a hearing to dissolve, vacate or modify the injunction. The amendment to rule 1.1507 puts the burden upon the applicant to certify that he or she has either made an attempt to provide notice or has legitimate reasons for not providing notice. The amendment to rule 1.1509 provides once the temporary injunction has been issued, the adverse party may then file a motion to dissolve, vacate or modify the injunction, which shall be heard within ten days. This puts the burden upon the adverse party to request the hearing.

Rule 1.1510 Enjoining proceedings or judgment; venue; bond. An action seeking to enjoin proceedings in a civil action, or on a judgment or final order, must be brought in the county and court where such proceedings are pending or such judgment or order was obtained, unless that be the supreme court, in which case the action must be brought in the court from which appeal was taken. Any bond in such action must be further conditioned to pay or comply with such judgment or order, or to pay any judgment that may be recovered against the petitioner on the claim enjoined.
[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1511 Violation as contempt. Violation of any provision of any temporary or permanent injunction shall constitute contempt and be punished accordingly.
[Report 1943; November 9, 2001, effective February 15, 2002]

Rules 1.1512 to 1.1600 Reserved.

DIVISION XVI **PROCEEDINGS FOR JUDICIAL REVIEW OF AGENCY ACTION**

Rule 1.1601 Applicability of rules. Except to the extent that they are inconsistent with any provision of the Iowa Administrative Procedure Act, Iowa Code chapter 17A, or with the rules specifically set forth in this division, the rules of civil procedure shall be applicable to proceedings for judicial review of agency action brought under that Act.
[Report 1980; November 9, 2001, effective February 15, 2002]

Rule 1.1602 Time for motion or answer. Respondent shall, within 20 days from the date of personal service or mailing of a petition for judicial review under Iowa Code section 17A.19(2), serve upon petitioner and all others upon whom the petition is required to be served, and within a reasonable time thereafter file a motion or answer.
[Report 1980; amendment 1984; Report April 30, 1987, effective July 1, 1987; November 9, 2001, effective February 15, 2002]

Rule 1.1603 Contested case proceedings; intervention, schedule, applicability of rule 1.904(2). In proceedings for judicial review of agency action in a contested case pursuant to Iowa Code section 17A.19:

1.1603(1) An intervenor may join with petitioner or respondent or claim adversely to both.

1.1603(2) Upon request of any party the reviewing court shall, or upon its own motion may, establish a schedule for the conduct of the proceeding.

1.1603(3) The provisions of rule 1.904(2) shall apply.
[Report 1980; November 9, 2001, effective February 15, 2002]

Rules 1.1604 to 1.1700 Reserved.

DIVISION XVII **SUBPOENAS**

Rule 1.1701 Subpoena.

1.1701(1) Form and contents.

a. Requirements. Every subpoena must:

- (1) State the court from which it issued;
- (2) State the title of the action and its docket number;

(3) Command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(4) Set out the text of rules 1.1701(4) and 1.1701(5).

b. Command to attend a deposition; notice of the recording method. A subpoena commanding attendance at a deposition must state the method for recording the testimony.

c. Combining or separating a command to produce or to permit inspection; specifying the form for electronically stored information. A command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.

d. Command to produce; included obligations. A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding party to permit inspection, copying, testing, or sampling of the materials.

e. Forms for subpoenas. Subpoena forms can be found in rule 1.1901, Form 13, 14 and 15.

1.1701(2) Issued by whom. The clerk must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it before service. A request may be made either orally or in writing. An attorney licensed or otherwise authorized to practice law in Iowa also may issue and sign a subpoena as an officer of the court.

1.1701(3) Service.

a. By whom; tendering fees; serving a copy of certain subpoenas. Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person and, if the subpoena requires that person's attendance and, if demanded, tendering the fees for one day's attendance and traveling fees to and from the court. If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served, a notice must be served on each party.

b. Permissible place of service. A subpoena may be served at any place:

(1) Within the state of Iowa;

(2) That the court authorizes on motion and for good cause, if a statute so provides.

c. Proof of service. Proving service, when necessary, requires filing with the issuing court a statement showing the date and manner of service and the names of persons served. The server must certify the statement in accordance with Iowa Code section 622.1.

1.1701(4) Protecting a person subject to a subpoena.

a. Avoiding undue burden or expense; sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

b. Command to produce materials or permit inspection.

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

c. Attendance. Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

d. Quashing or modifying a subpoena.

(1) *When required.* On timely motion, the issuing court must quash or modify a subpoena that:

1. Fails to allow a reasonable time to comply;
2. Requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;
3. Requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
4. Subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

1. Disclosing a trade secret or other confidential research, development, or commercial information; or
2. Disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.
3. A person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend trial.

(3) *Specifying conditions as an alternative.* In the circumstances described in rule 1.1701(4)(d)(2), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

1. Shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
2. Ensures that the subpoenaed person will be reasonably compensated.

1.1701(5) Duties in responding to a subpoena.

a. Producing documents or electronically stored information. These procedures apply to producing documents or electronically stored information:

(1) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) *Form for producing electronically stored information not specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) *Electronically stored information produced in only one form.* The person responding need not produce the same electronically stored information in more than one form.

(4) *Inaccessible electronically stored information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of rule 1.504(1)(b). The court may specify conditions for the discovery.

b. Claiming privilege or protection.

(1) *Information withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. Expressly make the claim; and
2. Describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) *Information produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

1.1701(6) Duties of issuer of subpoena; producing copies of materials obtained by subpoena. When a party on whose behalf a subpoena under rule 1.1701(1) has been issued thereby creates or obtains copies of designated electronically stored information, books, papers, documents

or tangible things, that party shall make available a duplicate of such copies at the request of any other party, who shall be responsible for payment of the reasonable cost of making the copies.

1.1701(7) Contempt. The issuing court may hold in contempt a person who, having been served and if necessary been provided fees and traveling expenses allowed by law, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of rule 1.1701(4)(d)(1)2. [Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002; February 14, 2008, effective May 1, 2008; August 10, 2009, effective October 9, 2009]

Rule 1.1702 Uniform interstate depositions and discovery.

1.1702(1) Definitions. In this rule:

- a. "Foreign jurisdiction" means a state other than Iowa.
- b. "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.
- c. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.
- d. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- e. "Subpoena" means a document, however denominated, issued under authority of a court of record of Iowa requiring a person to:
 - (1) Attend or give testimony at a deposition;
 - (2) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or
 - (3) Permit inspection of premises under the control of the person.

1.1702(2) Issuance of subpoena.

- a. To obtain issuance of a subpoena under this rule, a party to a proceeding in a foreign jurisdiction must either:
 - (1) request a signed, blank subpoena from the clerk of an Iowa court in the county in which discovery is to be conducted pursuant to rule 1.1701(2); or
 - (2) arrange for an attorney who is retained by that party and who is licensed or otherwise authorized to practice law in Iowa to issue and sign the subpoena as an officer of the court pursuant to rule 1.1701(2). Obtaining and completing a subpoena under rule 1.1702 does not constitute an appearance in the courts of this state.
- b. When a party submits a foreign subpoena to a clerk of court in this state, the clerk, pursuant to rule 1.1701(2), shall provide the party with a subpoena that is signed but otherwise blank.
- c. A subpoena under this rule must:
 - (1) Comply with rule 1.1701(1), provided, however, that for purposes of rule 1.1701(1)(a)(1), the Iowa court, in the county in which discovery is to be conducted, shall be listed as the court from which the subpoena is issued, and for purposes of rule 1.1701(1)(a)(2), the title of the action and its docket number from the foreign jurisdiction shall be used;
 - (2) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel; and
 - (3) Include a copy of the foreign subpoena as an attachment.
- d. Form 13 or Form 15 of rule 1.1901 may be used and shall be sufficient under this rule, so long as the form includes the information required by rule 1.1702(2)(c), and a copy of the foreign subpoena is attached as required by rule 1.1702(2)(c)(3).

1.1702(3) Service of subpoena. A subpoena issued under rule 1.1702(2) must be served in compliance with rule 1.1701(3).

1.1702(4) Deposition, production, and inspection. Rule 1.1701(4)-(7) applies to subpoenas issued under rule 1.1702(2).

1.1702(5) Court file and docket number. An attorney may issue a subpoena without an Iowa court file being opened or a docket number assigned. If action is taken pursuant to rule 1.1702(2)(b), the clerk shall open a court file and collect a \$50 fee. If action is taken pursuant to rule 1.1702(6) and a file has not previously been opened, the clerk shall open a file and collect a \$50 fee.

1.1702(6) Motion to court. A motion to the court for a protective order or to enforce, quash, or modify a subpoena issued under rule 1.1702(2) must comply with the rules or statutes of this state and be submitted to the court in the county in which discovery is to be conducted. Any fee paid in connection with the filing of a motion under rule 1.1702(6) shall be recoverable by the successful party against the losing party. In addition, the provisions of rule 1.517 apply to motions brought under this rule. An attorney who files such a motion or a resistance thereto must be eligible to appear in the courts of Iowa.

[Report December 6, 2012, effective February 4, 2013]

Rules 1.1703 to 1.1800 Reserved.

DIVISION XVIII RULES OF A GENERAL NATURE

Rule 1.1801 Computing time; holidays. In computing time under these rules, the provisions of Iowa Code section 4.1, subsection 34, shall govern.

[Report 1943; amendment 1967; November 9, 2001, effective February 15, 2002]

Rule 1.1802 Death, retirement or disability of judge.

1.1802(1) In the event of the death or disability of a judge in the course of a proceeding at which the judge is presiding, or while a motion for new trial or for judgment notwithstanding the verdict, or for other relief, is pending, any other judge of the district may hear or act upon the same, and, if in the judge's opinion the judge can proceed with the matter or determine the motion the judge shall do so; otherwise, the judge may order a continuance, declare a mistrial, order a new trial of all or any of the issues, or make such disposition of the matter as the situation warrants.

1.1802(2) In the event of the death or disability of a judge who has under advisement an undecided motion, or case tried without a jury, any other judge of the district may be called in, or a judge from another district may be appointed by the chief justice of the supreme court to consider the same, and, if by a review of the transcript or a reargument the judge can, in the judge's opinion, become sufficiently informed to render a decision, the judge shall do so; otherwise the judge may order a continuance, declare a mistrial, or order a new trial of all or any of the issues, or direct the recalling of any witnesses, or make such disposition of the matter as the situation warrants.

1.1802(3) In the event of the death, disability or retirement of a judge before the record for appeal in any case tried by the judge is settled, the record shall be settled by another judge of the district, or by a judge of another district appointed for that purpose by the chief justice of the supreme court.

[Report 1943; amendment 1945; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1803 Appeal to district court from administrative body. Where appeal to the district court from an action or decision of any officer, body or board is provided for by statute and the statute does not provide for the formulation of the issues either before such officer, body or board, or in the district court, the appellant shall file a petition in the district court within ten days after perfecting the appeal, or within such time as may be prescribed by the court. The appellee shall file motion or an answer to such petition within 20 days thereafter, or within such further time as may be prescribed by the court. Thereafter the rules of pleading and procedure in actions in the district court shall be applicable.

[Report 1943; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1804 Effect of notice by posting. Notice by posting shall not have legal effect except where expressly authorized by statute.

[Report 1943; amendment 1945; amendment 1973; November 9, 2001, effective February 15, 2002]

Rule 1.1805 General provisions, comments and footnotes.

1.1805(1) The past, present and future tense shall each include the others; the masculine, feminine and neuter gender shall include the others; and the singular and plural number shall each include the other.

1.1805(2) Rule and subrule headings do not in any manner affect the scope, meaning or intent of the provisions of the rules in this chapter.

1.1805(3) All references to sources, comments, and footnotes are incorporated solely for convenience in the use of the rules and do not form a part thereof.
[Report 1943; amendment 1961; November 9, 2001, effective February 15, 2002]

Rule 1.1806 Rules by trial courts. Each district court, by action of a majority of its district judges, may from time to time make and amend rules governing its practice and administration not inconsistent with these rules. All such rules or changes shall be subject to prior approval of the supreme court.
[Report 1961; amendment 1969; amendment 1979; December 28, 1989, effective July 2, 1990; November 9, 2001, effective February 15, 2002]

Rule 1.1807 Purpose of administrative rules. The purpose of all rules for court administration shall be to provide for the administration of justice in an orderly, efficient and effective manner, in accordance with the highest standards of justice and judicial service.
[Report 1969; November 9, 2001, effective February 15, 2002]

Rules 1.1808 to 1.1900 Reserved.

DIVISION XIX

FORMS

Rule 1.1901 Forms. The forms contained in the Appendix of Forms following this rule are for use and are sufficient under the Iowa Rules of Civil Procedure.
[Report 1976; Report 1978, effective July 1, 1979; amendment 1979; November 9, 2001, effective February 15, 2002]

APPENDIX OF FORMS

Rule 1.1901 — Form 1: *Form of Original Notice for Personal Service*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

Plaintiff(s), PIN

vs.

Defendant(s), PIN

No. _____

(INSERT "LAW" OR "EQUITY")

ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The attorney for the plaintiff(s) is _____, whose address is _____, Iowa _____. That attorney's telephone number is _____; facsimile number _____.

You must serve a motion or answer within 20 days after service of this original notice upon you and, within a reasonable time thereafter, file your motion or answer with the Clerk of Court for _____ County, at the county courthouse in _____, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

(SEAL)

CLERK OF COURT_____
County Courthouse
_____, Iowa _____

IMPORTANT

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

[Report 1976; Report 1978, effective July 1, 1979; April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1901 — Form 2: *Form of Original Notice Against a Nonresident Motor Vehicle Owner or Operator Under Iowa Code Section 321.500*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY	
Plaintiff(s), PIN	No. _____
vs.	_____
Defendant(s), PIN	(INSERT "LAW" OR "EQUITY")
	ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The attorney for the plaintiff(s) is _____, whose address is _____, Iowa _____ . That attorney's telephone number is _____; facsimile number _____.

You must serve a motion or answer within 60 days following the filing of this notice with the director of transportation of this state, and within a reasonable time thereafter, file your motion or answer with the Clerk of Court for _____ County, at the county courthouse in _____, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

(SEAL)

CLERK OF COURT

_____, Iowa _____
_____ County Courthouse

IMPORTANT

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

[Report 1976; Report 1978, effective July 1, 1979; amendment 1984; Report April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1901 — Form 3: *Form of Original Notice Against Foreign Corporation or Nonresident Under Iowa Code Section 617.3*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

Plaintiff(s), PIN

No. _____

vs.

(INSERT "LAW" OR "EQUITY")

Defendant(s), PIN

ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The attorney for the plaintiff(s) is _____, whose address is _____, Iowa _____ . That attorney's telephone number is _____; facsimile number _____.

You must serve a motion or answer within 60 days following the filing of this notice with the secretary of state of the State of Iowa, and, within a reasonable time thereafter, file your motion or answer with the Clerk of Court for _____ County, at the county courthouse in _____, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

(SEAL)

CLERK OF COURT_____
County Courthouse
_____, Iowa _____

IMPORTANT

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

[Report 1976; Report 1978, effective July 1, 1979; April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.1901 — Form 4: *Form of Original Notice for Publication*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

Plaintiff(s), PIN

No. _____

vs.

INSERT "LAW" OR "EQUITY")

Defendant(s), PIN

ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are notified that a petition has been filed in the office of the clerk of this court naming you as a defendant in this action, which petition prays¹ _____.

The attorney for the plaintiff(s) is _____, whose address is _____, Iowa _____.

That attorney's telephone number is _____; facsimile number _____.

You must serve a motion or answer on or before the² _____ day of _____, 20 ____, and, within a reasonable time thereafter, file your motion or answer with the Clerk of Court for _____ County, at the courthouse in _____, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

(SEAL)

CLERK OF COURT_____
County Courthouse
_____, Iowa _____**IMPORTANT****YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.**

[Report 1976; Report 1978, effective July 1, 1979; amendment 1979; Report April 3, 1986, effective July 1, 1986; April 30, 1987, effective July 1, 1987; October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

¹Here make a general statement of the claim or claims and, subject to the limitation in Iowa R. Civ. P. 1.403(1), the relief demanded (Iowa R. Civ. P. 1.302(1)).

²Date inserted here must not be less than 20 days after the day of the last publication of the original notice (Iowa R. Civ. P. 1.303).

Rule 1.1901 — Form 5: *Directions for Service of Original Notice*

COMPLETE ONE OF THESE DIRECTIONS FOR EACH INDIVIDUAL, COMPANY, CORPORATION, ETC., TO BE SERVED.

DIRECTIONS FOR SERVICE OF ORIGINAL NOTICE

TO: Sheriff _____ County OR TO: _____

_____ Courthouse _____

_____, Iowa _____

Serve: _____

At: _____

ON COMPLETION OF SERVICE NOTIFY: _____

Special Instructions or Information Relating to Service: _____

NAME AND SIGNATURE OF ATTORNEY

OR OTHER ORIGINATOR: _____

BY:

DATE: _____ TELEPHONE NO. _____

DEPOSIT FOR COST OF SERVICE

☐ Deposit Waived☐ Deposit for \$ _____ required and receipt thereof acknowledged._____
Clerk of Court

[Report 1976; November 9, 2001, effective February 15, 2002]

Rule 1.1901 — Form 6: *Final Pretrial Order*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

Plaintiff(s)

No. _____

vs.

Defendant(s)

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

[Report May 28, 1987, effective August 3, 1987; November 9, 2001, effective February 15, 2002]

Rule 1.1901 — Form 7: *Dissolution of Marriage — Affidavit of Financial Status*

The clerk of district court shall furnish without charge to parties in a dissolution of marriage action the following form of affidavit of financial status which includes the statement of net worth required by Iowa Code section 598.13, and other information deemed pertinent when a party is seeking or resisting alimony or support allowances.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY	
IN RE THE MARRIAGE OF _____, Petitioner, and concerning _____, Respondent.	DISSOLUTION OF MARRIAGE AFFIDAVIT OF FINANCIAL STATUS

I, _____, the Petitioner/Respondent in the above-entitled matter, being first duly sworn, state the following is a true and complete statement of my assets and liabilities, under Division I (and my present income under Division II, if applicable) as of the _____ day of _____, 20____ (to be signed on page 2).

DIVISION I — NET WORTH STATEMENT
(Required in all dissolution cases §598.13)

ASSETS

(Attach additional sheets if necessary)

Description	Ownership (H) (W) (J)	Market Value	Encumbrance	Net Value
Real Estate				
(a) Homestead	()	\$	\$	\$
(b) Other	()	\$	\$	\$
(describe)				
Vehicles (make, year)				
(a)	()	\$	\$	\$
(b)	()	\$	\$	\$
(c)	()	\$	\$	\$
Life Insurance (cash value)				
(a)	()	\$	\$	\$
(b)	()	\$	\$	\$
(c)	()	\$	\$	\$
Securities				
(a)	()	\$	\$	\$
(b)	()	\$	\$	\$
(c)	()	\$	\$	\$
Cash & Bank Accounts				
(a)	()	\$	\$	\$
(b)	()	\$	\$	\$
(c)	()	\$	\$	\$
Household Contents				
(a) Furniture	()	\$	\$	\$
(b) Appliances	()	\$	\$	\$
Other:				
(c)	()	\$	\$	\$
Other Assets - Itemize:				
(a)	()	\$	\$	\$
(b)	()	\$	\$	\$
(c)	()	\$	\$	\$
(d)	()	\$	\$	\$
Totals		\$ _____	\$ _____	\$ _____
Less: Other debts - itemized below				\$ _____
NET WORTH				\$ _____

DIVISION I — *continued*

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
Total	\$ _____

DIVISION II — CURRENT INCOME AND EXPENSE INFORMATION
 (To be completed by all parties seeking or resisting alimony or support allowances)

A. Income Source
 (including ADC
 & other support
 payments)

		Gross	Deduction(s) (see below)	Net Income
(a)	\$ _____ per _____	\$ _____	\$ _____	\$ _____
(b)	\$ _____ per _____	\$ _____	\$ _____	\$ _____
(c)	\$ _____ per _____	\$ _____	\$ _____	\$ _____
(d)	\$ _____ per _____	\$ _____	\$ _____	\$ _____
			Total	\$ _____

Deductions Explained (specify Income Source (a), (b), (c), etc.)

Income Source:

()	\$ _____ per _____	for _____
()	\$ _____ per _____	for _____
()	\$ _____ per _____	for _____
()	\$ _____ per _____	for _____
()	\$ _____ per _____	for _____
()	\$ _____ per _____	for _____

B. Affiant's estimate
 of the other
 spouse's income
 (including ADC
 & other support
 payment)

		Gross	Deduction(s) (see below)	Net Income
(a)	\$ _____ per _____	\$ _____	\$ _____	\$ _____
(b)	\$ _____ per _____	\$ _____	\$ _____	\$ _____
(c)	\$ _____ per _____	\$ _____	\$ _____	\$ _____
(d)	\$ _____ per _____	\$ _____	\$ _____	\$ _____
			Total	\$ _____

Deductions Explained (specify Income Source (a), (b), (c), etc.)

Income Source:

()	\$ _____ per _____	for _____
()	\$ _____ per _____	for _____
()	\$ _____ per _____	for _____
()	\$ _____ per _____	for _____
()	\$ _____ per _____	for _____
()	\$ _____ per _____	for _____

C. Residential Arrangements

Are both spouses living in the same dwelling? _____

If there are children, which spouse or other person has physical care of the children? _____

Do the children reside in the family dwelling or elsewhere? _____

DIVISION II — *continued*

D. Personal Expenses For Support of Affiant (and _____ children)

(Note: Report all expenses uniformly either weekly or monthly)

House payment or rent \$ _____ per _____

Meals or food \$ _____ per _____

Clothing \$ _____ per _____

Car expense, transportation \$ _____ per _____

Medical, dental \$ _____ per _____

Utilities & telephone \$ _____ per _____

Other expenses: _____ \$ _____ per _____

_____ \$ _____ per _____

_____ \$ _____ per _____

Installment Payments and Other
Debts Payable to:

_____ \$ _____ per _____

_____ \$ _____ per _____

_____ \$ _____ per _____

_____ \$ _____ per _____

_____ \$ _____ per _____

Total of Division D \$ _____

Affiant requests: \$ _____ per _____ as child support
 \$ _____ per _____ as temporary alimony
 \$ _____ per _____ as temporary attorney fees

Petitioner/Respondent

Subscribed and Sworn to before me this _____ day of _____, 20 ____.

Notary Public In And For The State of Iowa

[Court Order June 26, 1980; July 10, 1980; July 27, 1984; Letter of request to correct total line of Division II, D by substituting "D" for "B," February 22, 1991; November 9, 2001, effective February 15, 2002]

Rule 1.1901 — Form 8: *Financial Affidavit and Application for Appointment of Counsel*

In the Iowa District Court for _____ County

State of Iowa or _____,	)	No. _____
Plaintiff/Petitioner,	)	
	)	Financial Affidavit and Application for
vs.	)	Appointment of Counsel
_____	)	
Defendant/Respondent.	)	

In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State ZipPending charges: _____ In jail? ☐ Yes ☐ NoDo you have a job? ☐ No job ☐ Yes, full time ☐ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ☐ hour ☐ month ☐ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ☐ hour ☐ month ☐ year

List all other money you, and anyone else living in your household, has coming in: _____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than \$100: _____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____

I understand I may be required to repay the state for all or part of my attorney fees and costs, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.

Date _____

Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; April 11, 2008, effective July 1, 2008; June 26, 2008, effective September 1, 2008; November 8, 2012, effective January 7, 2013]

Rule 1.1901 — Form 8A: *Order for Appointment of Counsel*

In the Iowa District Court for _____ County

State of Iowa or _____,	)	No. _____
Plaintiff/Petitioner,	)	
	)	
vs.	)	Order for Appointment of Counsel
_____	)	
Defendant/Respondent.	)	

Now on this _____ day of _____, 20____, the court having received and examined Defendant's Financial Affidavit and Application for Appointment of Counsel and having considered not only Defendant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. Defendant:

- ☐ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
- ☐ Defendant's income is **at or below 125%** of the poverty guidelines and Defendant is unable to pay for the cost of an attorney; **or**
 - ☐ Defendant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Defendant substantial financial hardship; **or**
 - ☐ Defendant's Income is **over 200%** of the poverty guidelines, Defendant is charged with a felony, and not appointing counsel would cause Defendant substantial financial hardship.
- ☐ Is not eligible for court-appointed counsel pursuant to Iowa Code section 815.9.

2. Counsel appointed below to represent Defendant is:

- ☐ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in this county; **or**
- ☐ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
- ☐ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
 - ☐ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
 - ☐ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

It is therefore ordered that Defendant's Application for Appointment of Counsel is

- ☐ Denied.
- ☐ Approved, and that _____ is appointed to represent Defendant in this case at State expense and may be contacted at _____.

Judge, _____ Judicial District

Copy to:

*Note: In a parole revocation proceeding, the appointment order must include additional specific findings. See Iowa Code § 908.2A(1)(c); Iowa Administrative Code 493—12.2(1)“b”(2). Do not use this form for parole revocation appointments.

[Report November 8, 2012, effective January 7, 2013]

Rule 1.901 — Form 9: *Financial Affidavit of Parent and Application for Appointment of Counsel for* ☐ Child ☐ Parent ☐ Other

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of _____, _____, _____, Child(ren).	)))))))	Juvenile No. _____ Financial Affidavit of Parent and Application for Appointment of Counsel for ☐ Child ☐ Parent ☐ Other: _____
---	---------------------------------	--

In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____

Street/P.O. Box Apt # City State Zip

Case: ☐ CINA ☐ TPR ☐ Del ☐ Other: _____ Relationship to Child(ren): ☐ Parent ☐ Other: _____

Do you have a job? ☐ No job ☐ Yes, full time ☐ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ☐ hour ☐ month ☐ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ☐ hour ☐ month ☐ year

List all other money you, and anyone else living in your household, has coming in: _____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than \$100: _____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____

I understand I may be required to repay the state for my attorney fees and costs and those of my child, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.

Date: _____

Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; April 11, 2008, effective July 1, 2008; June 26, 2008, effective September 1, 2008; November 8, 2012, effective January 7, 2013]

Rule 1.901 — Form 9A: *Order for Appointment of Counsel for* ☐ *Child* ☐ *Parent* ☐ *Other*

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of

Juvenile No.

Order for Appointment of Counsel for

☐ Child ☐ Parent ☐ Other: _____

Child(ren).

Now on this _____ day of _____, 20____, the court having received and examined the Financial Affidavit of Parent and Application for Appointment of Counsel and having considered not only the Child/Applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. Child/Applicant:

- ☐ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
 - ☐ Child/Applicant's income is **at or below 125%** of the poverty guidelines and Child/Applicant is unable to pay for the cost of an attorney; **or**
 - ☐ Child/Applicant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Child/Applicant substantial financial hardship; **or**
 - ☐ Child/Applicant's Income is **over 200%** of the poverty guidelines, case is a felony-level delinquency, and not appointing counsel would cause Child/Applicant substantial financial hardship.
- ☐ Is a child and is otherwise eligible for court-appointed counsel under Iowa Code chapter 232.
- ☐ Is not eligible for court-appointed counsel.

2. Counsel/guardian ad litem appointed below to represent Child/Applicant is:

- ☐ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code § 13B.4(2) to represent indigent persons in this type of case in this county; **or**
- ☐ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
 - ☐ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
 - ☐ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
 - ☐ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

It is therefore ordered that Child/Applicant's Application for Appointment of Counsel is

- ☐ Denied.
- ☐ Approved, and that _____ is appointed to serve as
counsel/guardian ad litem in this case for _____ at state expense
and may be contacted at _____

Judge, _____ Judicial District

Copy to:

***Note:** A different standard applies for determining eligibility for appointment of respondent's counsel in a Chapter 600A TPR, and additional findings are required to determine the appropriate party/agency responsible for payment. See Iowa Code §§ 600A.2(11), 600A.6A(2), and 600A.6B. **Do not use this form order for 600A TPR Appointments.**

[Report November 8, 2012, effective January 7, 2013]

Rule 1.1901 — Form 10: *Form of Notice of Intent to File Written Application for Default*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

Plaintiff(s),

No. _____

vs.

**NOTICE OF INTENT TO FILE WRITTEN
APPLICATION FOR DEFAULT**

Defendant(s).

TO: (defendant)

DATE OF NOTICE: (date of mailing)

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A DEFAULT JUDGMENT WILL BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD SEEK LEGAL ADVICE AT ONCE.

(Signature of Plaintiff or Attorney)_____
(Address)_____
(Telephone Number)

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 1.901 — Form 11: *Petition for Termination of Parental Rights and Child Support Obligation Pursuant to Iowa Code Section 600B.41A(7)*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(Name of county where you are filing this petition)

IN THE MATTER OF THE PATERNITY OF

_____,

Child(ren),

_____,

Petitioner. (Father)

Case No. _____

(Leave blank—Clerk of Court will complete)

**PETITION FOR TERMINATION OF
PARENTAL RIGHTS AND CHILD
SUPPORT OBLIGATION PURSUANT
TO IOWA CODE SECTION 600B.41A(7)**

I, the petitioner, state:

1. In an order dated _____, and filed in _____ County, Iowa, the court found that I am the established, but not the biological, father of the child(ren) below:

Contrary to my wishes, the court denied my petition to overcome paternity and continued my child support obligation. A copy of that order is attached.

2. I seek to be relieved of the obligations of parenthood and child support.

3. I request that the court enter an order that terminates my parental rights to the above-named child(ren) and ends my obligation for any and all future child support.

4. Upon filing this petition, I will serve a copy on the following individuals:

(a) any parent who has not joined in this petition; and

(b) any person or agency with the right to receive child support for the above-named child(ren).

5. I understand that I must provide proof to the court that I served a copy of this petition as required in paragraph (4).

WHEREFORE, I ask the court to grant this petition to terminate my parental rights and to relieve me from any future child support payments.

Petitioner

Address

Date: _____

NOTICE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____.
(If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

STATE OF IOWA }
_____ COUNTY } ss:

I, _____, do on oath state that I have read the above petition and the information provided is true and accurate to the best of my knowledge.

Petitioner (sign **only** in front of a Notary Public)

Sworn and subscribed to before me by _____ on this
_____ day of _____, 20 ____.

Notary Public in and for the State of Iowa

[Court Order June 26, 1997, temporary rules effective July 1, 1997; June 26, 1997, permanent rules effective September 1, 1997; November 9, 2001, effective February 15, 2002]

Rule 1.901 — Form 12: Court Reporter Memorandum and Certificate**IN THE IOWA DISTRICT COURT FOR _____ COUNTY**

_____ Plaintiff/Petitioner, vs. _____ Defendant/Respondent.	No. _____ COURT REPORTER MEMORANDUM AND CERTIFICATE
---	--

COURT REPORTER MEMORANDUM**(The court reporter shall file this memorandum with the district court clerk.)****Appearances:**

For Plaintiff/Petitioner _____

For Defendant/Respondent _____

Other _____

Information required by Iowa Rule of Civil Procedure 1.903(3):I _____ (*insert name*) am providing the following information as required by Iowa Rule of Civil Procedure 1.903(3):

1. The type of proceeding that was reported: _____

2. The date(s) on which the proceeding occurred: _____

3. The name of the court reporter who reported the proceeding: _____

4. The name of the judge who presided over the proceeding: _____

5. The reporting fee for the proceeding: _____

6. We, the undersigned judge before whom the above-entitled case was tried, and the official court reporter who, by order of the court, reported the same, do hereby certify that the above and foregoing is the report of the whole proceedings upon the trial and/or hearing of the above-entitled cause made and take pursuant to the order and direction of the court,

in accordance with Iowa Code section 624.10.

DATED this ____ day of _____, ____.

(Signature of Court Reporter)

(Signature of Judge)

[Court Order July 31, 2008, effective October 1, 2008; August 10, 2009, effective October 9, 2009]

Rule 1.1901 — Form 13: Subpoena Form to Testify at Deposition or Produce Documents

THE IOWA DISTRICT COURT FOR _____ COUNTY

)
)
)
)
)
)

No. _____

**SUBPOENA TO TESTIFY AT A DEPOSITION
OR TO PRODUCE DOCUMENTS IN A CIVIL ACTION**

To: _____

☐ **YOU ARE COMMANDED** to appear at the time, date, and place specified below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other person who consents to testify on your behalf about the following matter, or those set forth in an attachment:

Place: _____

Date: _____ Time: _____

The deposition will be recorded by this method: _____

☐ You or your representative must also bring with you to the deposition the following books, documents, electronically stored information, or tangible things, and permit their inspection, copying, testing, or sampling of the material:

Form of electronically stored information to be produced: _____

Date: _____

Signature of Clerk of the District Court
OR

Attorney's signature

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) _____

_____, who issues or requests this subpoena:

PROOF OF SERVICE

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

- ☐ I personally served the subpoena on the individual at *(place)* _____
_____ on *(date)* _____; or
- ☐ I left the subpoena at the individual's dwelling house or usual place of abode with *(name)* _____
_____, a person residing therein who is at least 18 years old; or
- ☐ I served the subpoena on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or
- ☐ I returned the subpoena unexecuted because _____; or
- ☐ Other *(specify)*:

WITNESS FEES

- ☐ No witness fee requested or required under Iowa Code section 622.74.
- ☐ I have tendered to the witness fees for one day's attendance in the amount of \$ _____ and the
mileage allowed by law in the amount of \$ _____, for a total of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons
named below and at the address indicated on the ____ day of _____, 20__ by the following method _____:

Name and address of party or attorney: _____

Signature of server

[Court Order August 10, 2009, effective October 9, 2009]

Rule 1.1901 — Form 14: Subpoena Form to Testify at Hearing or Trial

THE IOWA DISTRICT COURT FOR _____ COUNTY

)
)
)
)
)
)

No. _____

**SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION**

To: _____

YOU ARE COMMANDED to appear in the Iowa District Court for _____ County at the time, date, and place specified below to testify at a hearing or trial in the above case. When you arrive, you must remain in the court until a judge or court officer allows you to leave. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other person who consents to testify on your behalf about the following matter, or those set forth in an attachment:

Place: _____

Date: _____ Time: _____

You must also bring with you the following books, documents, electronically stored information, or tangible things:

Form of electronically stored information to be produced: _____

Date: _____

Signature of Clerk of the District Court

OR

Attorney's signature

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

The name, address, e-mail, and telephone number of the attorney representing (name of party) _____

_____, who issues or requests this subpoena:

PROOF OF SERVICE

This subpoena for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

- ☐ I personally served the subpoena on the individual at *(place)* _____
 _____ on *(date)* _____; or
- ☐ I left the subpoena at the individual's dwelling house or usual place of abode with *(name)* _____
 _____, a person residing therein who is at least 18 years old; or
- ☐ I served the subpoena on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or
- ☐ I returned the subpoena unexecuted because _____; or
- ☐ Other *(specify)*:

WITNESS FEES

- ☐ No witness fee requested or required under Iowa Code section 622.74.
- ☐ I have tendered to the witness fees for one day's attendance in the amount of \$ _____ and the
 mileage allowed by law in the amount of \$ _____, for a total of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

 Server's signature

 Printed name and title

 Server's address

Additional information regarding attempted service, etc.:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons
 named below and at the address indicated on the ____ day of _____, 20__ by the following method _____:

Name and address of party or attorney: _____

 Signature of server

Rule 1.1901 — Form 15: Subpoena Form to Produce Documents or Permit Inspection

THE IOWA DISTRICT COURT FOR _____ COUNTY

)
)
)
)
)
)
)

No. _____

**SUBPOENA TO PRODUCE BOOKS, DOCUMENTS,
ELECTRONICALLY STORED INFORMATION, OR
TANGIBLE THINGS OR TO PERMIT INSPECTION OF
PREMISES**

To: _____

☐ **YOU ARE COMMANDED** to produce at the time, date, and place specified below the following books, documents, electronically stored information, or tangible things, and permit their inspection, copying, testing, or sampling of the material:

Place: _____

Date: _____ Time: _____

Form of electronically stored information to be produced: _____

☐ **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated objection or operation on it.

Place: _____

Date: _____ Time: _____

Date: _____

Signature of Clerk of the District Court

OR

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) _____

_____, who issues or requests this subpoena:

PROOF OF SERVICE

This subpoena for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

- ☐ I personally served the subpoena on the individual at *(place)* _____
 _____ on *(date)* _____; or
- ☐ I left the subpoena at the individual's dwelling house or usual place of abode with *(name)* _____
 _____, a person residing therein who is at least 18 years old; or
- ☐ I served the subpoena on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or
- ☐ I returned the subpoena unexecuted because _____; or
- ☐ Other *(specify)*:

WITNESS FEES

- ☐ No witness fee requested or required under Iowa Code section 622.74.
- ☐ I have tendered to the witness fees for one day's attendance in the amount of \$ _____ and the
 mileage allowed by law in the amount of \$ _____, for a total of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

 Server's signature

 Printed name and title

 Server's address

Additional information regarding attempted service, etc.:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons
 named below and at the address indicated on the ____ day of _____, 20__ by the following method _____:

Name and address of party or attorney: _____

 Signature of server

[Court Order August 10, 2009, effective October 9, 2009]

Rule 1.1901 — Form 16: Expedited Civil Action Certification

In the Iowa District Court for _____ County	
Plaintiff <i>Full name of Plaintiff: first, middle, last</i>	Civil case no. _____
vs.	Expedited Civil Action Certification
Defendant <i>Full name of Defendant: first, middle, last</i>	

Plaintiff, _____, together with Plaintiff's attorney,
Name of Plaintiff

_____, elect to bring this lawsuit as an Expedited
Name of attorney

Civil Action under Iowa Rule of Civil Procedure 1.281.

Plaintiff certifies that the sole relief sought is a money judgment and that all claims (other than compulsory counterclaims) for all damages by or against any one party total \$75,000 or less, including damages of any kind, penalties, prefilng interest, and attorney fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs.

Plaintiff certifies the following:

1. I am a plaintiff in this action.
2. If I am represented by an attorney, I have conferred with my attorney about using the Expedited Civil Action procedures available to parties in the State of Iowa.
3. I understand that by electing to proceed under Expedited Civil Action procedures, the total amount of my recovery will not exceed \$75,000, excluding prejudgment interest accrued after the filing, postjudgment interest, and court costs. Additionally, no single defendant can be liable for more than \$75,000 to all plaintiffs combined, excluding prejudgment interest accrued after the filing, postjudgment interest, and court costs.
4. I understand that if a jury were to award more than \$75,000 as damages to me, or if a jury were to award more than \$75,000 in total against a single defendant, the trial judge would reduce the amount of the judgment to \$75,000, plus any applicable interest and court costs to which I may be entitled.

With this knowledge, I agree to proceed under the Expedited Civil Action procedures.

Dated this ____ day of _____, 20____.

Plaintiff

Rule 1.1901—Form 16: *Expedited Civil Action Certification*, continued**Oath and Signatures**

I, _____, certify under penalty of perjury and pursuant to the
Print Plaintiff's name
laws of the State of Iowa that the preceding is true and correct.

_____, 20____
Month Day Year

Handwritten signature of Plaintiff

Full name of Plaintiff: first, middle, last

Plaintiff's attorney's name, if applicable

Signature of attorney, if applicable

Law firm, if applicable

Mailing addr. of attorney (or Plaintiff if unrepresented)

Telephone no. of attorney (or Plaintiff if unrepresented)

Email address of attorney (or Plaintiff if unrepresented)

Additional email address, if available

Rule 1.1901 — Form 17: *Alternative Expedited Civil Action Certification*

In the Iowa District Court for _____ County	
Plaintiff <i>Full name of Plaintiff: first, middle, last</i> vs. Defendant <i>Full name of Defendant: first, middle, last</i>	Civil case no. _____ Alternative Expedited Civil Action Certification for Plaintiffs that Are Not Natural Persons or Otherwise Must Act Through a Representative

Plaintiff, _____, together with Plaintiff's attorney,
Name of Plaintiff
 _____, elect to bring this lawsuit as an Expedited
Name of attorney

Civil Action under Iowa Rule of Civil Procedure 1.281.

Plaintiff certifies that the sole relief sought is a money judgment and that all claims (other than compulsory counterclaims) for all damages by or against any one party total \$75,000 or less, including damages of any kind, penalties, prefilings interest, and attorney fees, but excluding prejudgment interest accrued after the filing date, postjudgment interest, and costs.

The undersigned person certifies the following:

1. I am the _____ of Plaintiff in this action. I am duly authorized to execute this
Title
 certification.
2. If Plaintiff is represented by an attorney, I have conferred with that attorney about using the Expedited Civil Action procedures available to parties in the State of Iowa.
3. I understand that by electing to proceed under Expedited Civil Action procedures, the total amount of Plaintiff's recovery will not exceed \$75,000, excluding prejudgment interest accrued after the filing, postjudgment interest, and court costs. Additionally, no single defendant can be liable for more than \$75,000 to all plaintiffs combined, excluding prejudgment interest accrued after the filing, postjudgment interest, and court costs.
4. I understand that if a jury were to award more than \$75,000 as damages to Plaintiff, or if a jury were to award more than \$75,000 in total against a single defendant, the trial judge would reduce the amount of the judgment to \$75,000, plus any applicable interest and court costs to which Plaintiff may be entitled.

Continued on next page

Rule 1.1901—Form 17: *Alternative Expedited Civil Action Certification*, continued

With this knowledge, Plaintiff agrees to proceed under the Expedited Civil Action procedures.

Dated this ____ day of _____, 20____.

Plaintiff

Name and title of Plaintiff's representative signing this form

Oath and Signature

I, _____, certify under penalty of perjury and pursuant to the
Print name of Plaintiff's representative
 laws of the State of Iowa that the preceding is true and correct.

_____, 20____
Month Day Year

Handwritten signature of Plaintiff's representative

Full name of Plaintiff's representative

Name of attorney

Signature of attorney

Name of law firm

Mailing address of attorney

Telephone number of attorney

Email address of attorney

Additional email address, if available

Rule 1.1901 — Form 18: Joint Motion to Proceed as an Expedited Civil Action

In the Iowa District Court for _____ County	
Plaintiff <i>Full name of Plaintiff: first, middle, last</i> vs. Defendant <i>Full name of Defendant: first, middle, last</i>	Civil case no. _____ Joint Motion to Proceed as an Expedited Civil Action

1. Pursuant to Iowa Rule of Civil Procedure 1.281(1)(f), the parties hereby move upon stipulation that this action proceed as an Expedited Civil Action.
2. All parties agree to this motion.
3. If the court grants this joint motion, the parties acknowledge and agree that this case will be subject to the Expedited Civil Action rule (Iowa R. Civ. P. 1.281), except for any limitations on damages set forth in the rule.

Status of Trial Scheduling and Discovery Plan: *Check one*

- ☐ The parties have already filed a Trial Scheduling and Discovery Plan. This case has a current trial date of _____. The parties wish to retain that trial date. The parties acknowledge and agree that in the event of any conflict between the existing Trial Scheduling and Discovery Plan and Iowa Rule of Civil Procedure 1.281, the deadlines in rule 1.281 will apply.
- ☐ The parties will be filing a Trial Scheduling and Discovery Plan in an Expedited Civil Action case.

I certify that all parties and attorneys to this action have agreed to this Joint Motion and have been served with a copy.

	, 20	
<i>Signed: Month Day Year</i>		<i>Party's or attorney's signature</i>
<i>Printed name</i>		<i>Attorney's law firm, if applicable</i>
<i>Mailing address</i>	<i>City</i>	<i>State ZIP code</i>
<i>()</i>		
<i>Phone number</i>	<i>Email address</i>	<i>Additional email address, if applicable</i>

Rule 1.1901 — Form 19: Health Care Provider Statement in Lieu of Testimony

In the Iowa District Court for _____ County	
_____ Plaintiff <i>Full name of Plaintiff: first, middle, last</i> vs. _____ Defendant <i>Full name of Defendant: first, middle, last</i>	Civil case no. _____ Health Care Provider Statement in Lieu of Testimony (and Attorney Certificate)

Patient Name: _____

Type of Incident: _____

Date of Incident: _____

Answer the following questions with information and opinions regarding the named patient.

- ☐ Check this box if you are attaching separate pages for any of your answers to the questions below. Be sure that the question to which your answer relates appears at the top of each additional page. *Number of additional pages:* _____

1. What degrees, licenses, and board certifications do you hold, if any, and what year was each attained? Alternatively, you may attach your curriculum vitae.

2. What injuries, if any, did _____ sustain in the above-referenced incident?
Patient

3. Did _____ have any pre-existing, symptomatic conditions that were
Patient
 aggravated by the injuries sustained in the incident? If so, describe the pre-existing conditions and the extent of their aggravation.

4. Did _____ have any pre-existing, nondisabling, nonsymptomatic conditions
Patient
 that became symptomatic as a result of the incident? If so, describe.

Rule 1.1901—Form 19: *Health Care Provider Statement in Lieu of Testimony*, continued

5. What treatment has _____ received from you that was necessitated by the
Patient
injuries sustained in the incident? Include treatment provided by other care providers to the extent you are aware of such. Include medications prescribed, therapy recommended, surgery recommended and any other treatments needed as a result of this condition.
- _____
- _____
6. Have there been or are there any restrictions or limitations placed on _____
Patient
due to injuries sustained in the incident? If so, describe them, including the actual or expected duration of the restrictions or limitations.
- _____
- _____
7. Has _____ made a full recovery from the injuries sustained in the
Patient
incident? If not, what are your expectations for _____ regarding future
Patient
symptoms and the duration of such symptoms?
- _____
- _____
8. Is there any additional care or medications that may reasonably be required in the future as a result of the injuries sustained in the incident? If so, describe the expected care, including the expected frequency, duration, and cost.
- _____
- _____
9. Is _____ now susceptible to further health problems in the future as a
Patient
result of injuries sustained in the incident? If so, explain.
- _____
- _____
10. Is there anything _____ has done or failed to do that has aggravated
Patient
his or her condition or impaired his or her recovery? If so, explain.
- _____
- _____
11. Have you reviewed or relied upon any medical records other than those generated by you or other providers in your office in forming your opinions to the answers to the questions above? If so, identify or attach the records that you have reviewed and relied upon in forming your answers.
- _____
- _____

Rule 1.1901—Form 19: *Health Care Provider Statement in Lieu of Testimony*, continued

12. Have you relied upon any other documents or information about _____ or
Patient
the incident, other than the records indicated above? If so, state what documents or
information you relied upon, and the manner by which you received it.

Oath and Signature

I, _____, certify under penalty of perjury and pursuant to the
Health care provider's name
laws of the State of Iowa that the preceding is true and correct.

_____, 20_____
Signed on: Month Day Year Health care provider's signature

Attorney Certificate on next page

Rule 1.1901—Form 19: *Health Care Provider Statement in Lieu of Testimony*, continued**Attorney Certificate**

List any oral, written, or electronic communications between you or anyone in your office and the above-named treating health care provider or anyone in the provider's office regarding

Patient

For each such communication, identify the date of the communication and, if the communication was written or electronic, attach copies of such communications:

Oath and Signature

I, _____, certify under penalty of perjury and pursuant to the
Print attorney's name

laws of the State of Iowa that the preceding is true and correct.

_____, 20____
Month Day Year

Information supplied by:

Handwritten signature

Full name: first, middle, last

Law firm, if applicable

Mailing address

Telephone number

Email address

Additional email address - if available

CHAPTER 6

RULES OF APPELLATE PROCEDURE

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(For appellate rules taking effect January 1, 2009)

(Showing equivalent or comparable provisions.)

Former No.	New No.	Former No.	New No.	Former No.	New No.
6.1(1)-(3)	6.103	6.10(2)(c)	6.803(1) 6.804(3)	6.13	6.901
6.1(4)	6.108	6.10(2)(d)	6.803(5) 6.805(1)-(2)	6.14	6.109(1) 6.903 6.904
6.2	6.103(3) 6.104	6.10(2)(e)	6.805(3)	6.15	6.905
6.3	6.105	6.10(2)(f)	6.803(4)	6.16(1)	6.903(1)(a)-(f) 6.905(3)
6.4	6.907	6.10(2)(g)	6.803(2)	6.16(2)	6.1007
6.5	6.101 6.104(1)(b)(2)	6.10(2)(h)	6.803(3),(5)	6.16(3)	6.903(1)(h) 6.905(13)
6.6(1)	6.102(2)	6.10(3)	6.806	6.17	6.902
6.6(2)	6.104(3)	6.10(4)	6.807	6.18	6.906
6.6(3)	6.102(1)	6.11	6.802	6.19	6.1006(1) 6.1202
6.6(4)	6.102(1)(b) 6.201	6.12(1)	6.109(2) 6.702	6.20(1)	6.1003(2)
6.7	6.601	6.12(2)	6.702 6.803(3)	6.20(2)	6.101(5) 6.104(1)(b)(3) 6.106(1)(b) 6.107(1)(b) 6.1003(1)
6.8	6.602	6.12(3)	6.1202(1)(a)	6.21(1)-(5)	6.908
6.9	6.603	6.12(4)	6.1202(1)(a)	6.21(6)-(7)	6.1102(1)-(2)
6.10(1)	6.801	6.12(5)	----	6.22(1)-(2)	6.1001
6.10(2)(a)	6.803(1) 6.804(1)-(2)	6.12(6)	6.1201	6.22(3)-(10)	6.1002
6.10(2)(b)	6.804(2)	6.12(7)	6.1004	6.22(11)	6.604

Former No.	New No.		Former No.	New No.		Former No.	New No.
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6.24	6.1203		6.152	6.202		6.458	6.304(1)-(2)
6.25	6.1209		6.153	6.204		6.459	6.304(3)
6.26	6.1206		6.154	6.205		6.460	6.305
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6.29	6.1207		6.203	6.106(3) 6.702(1)(c) 6.702(2)		6.502	6.401
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6.31	6.701		6.302	6.107(2)		6.701 Table 1	6.1501 Table 1
6.32	6.109(4),(5)		6.303	6.107(1)(d) 6.107(4)-(5) 6.702(1)(d)		6.701 Table 2	6.1501 Table 2
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6.104	6.1005		6.454	6.302(3) 6.303(1)-(2)		6.751 Form 6	----
6.105	6.803(3)(a) 6.902(1)(e)		6.455	6.302(3) 6.303(3)			
6.106	6.101(1)(b) 6.701(3)		6.456	6.302(2)			

CHAPTER 6 RULES OF APPELLATE PROCEDURE

DIVISION I

CASE INITIATION: CIVIL AND CRIMINAL; PARTIES AND ATTORNEYS; PROTECTED
INFORMATION; AND CONFIDENTIAL MATERIALS

Rules 6.1 to 6.99 Reserved.

Rule 6.100 Mandatory use of electronic document management system (EDMS) for appellate cases.

6.100(1) *Mandatory electronic filing.* All attorneys authorized to practice law in Iowa, all attorneys admitted pro hac vice, *see* Iowa Ct. R. 31.14, and all self-represented litigants must register under Iowa R. Elec. P. 16.304(1) to participate in EDMS. If an attorney or self-represented litigant has previously registered to participate at the district or appellate court level, then no additional registration is required. As provided in this chapter, registered filers must electronically submit all documents to be filed with the court unless otherwise required or authorized by these rules.

6.100(2) *Applicability of divisions I through VI of the Iowa Rules of Electronic Procedure.* Except for Iowa Rs. Elec. P. 16.101, 16.301, 16.302(2), and 16.303(4), the rules pertaining to the use of EDMS found in divisions I through VI of chapter 16, including rules pertaining to the protection of personal privacy, apply in appellate court cases.

6.100(3) *Exemptions.*

a. Good cause. For good cause, the clerk of the supreme court or the clerk's deputy may authorize a filer to submit a document by nonelectronic means to the clerk for filing. Upon a motion showing that exceptional circumstances make it unreasonable for a party to file documents electronically, the supreme court may exempt the party from electronic filing for purposes of the party's case on appeal. If a district court exempted a party from electronic filing in the underlying action, *see* Iowa R. Elec. P. 16.302(2), a copy of the district court order granting the exemption must be attached to the party's request to be excused from electronic filing requirements for the case on appeal.

b. Abortion notification appeals. Abortion notification appeals may be filed electronically or nonelectronically.

c. Nonelectronic filings by certain confined persons. A party who is confined pursuant to governmental authority, including but not limited to a person who is incarcerated or civilly committed, is excused from registering to file electronically.

d. Paper case files. Except as otherwise provided by court rules, *see, e.g.,* Iowa R. Elec. P. 16.313(1), or as the supreme court directs, the clerk will not maintain paper case files in appeals initiated on or after the initiation of electronic filing in the appellate courts.

[Court Order November 18, 2016, effective March 1, 2017]

Rule 6.101 Time for appealing final orders and judgments appealable as a matter of right.

6.101(1) *Time for filing a notice of appeal from final orders and judgments.*

a. Termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232. A notice of appeal from a final order or judgment entered in Iowa Code chapter 232 termination-of-parental-rights or child-in-need-of-assistance proceedings must be filed within 15 days after the filing of the order or judgment. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2) or Iowa R. Civ. P. 1.1007, the notice of appeal must be filed within 15 days after the filing of the ruling on such motion.

b. All other cases. A notice of appeal must be filed within 30 days after the filing of the final order or judgment. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2) or Iowa R. Civ. P. 1.1007, the notice of appeal must be filed within 30 days after the filing of the ruling on such motion.

c. Timely filing of motion defined. For purposes of subparts *a* and *b* above, a motion is considered timely if it has been filed by the applicable deadline and asks the court to reconsider, enlarge, or amend its order, ruling, judgment, or decree. Whether a motion is proper or not does not affect its timeliness. Provided, however, that a motion will not be considered timely if the same party has previously filed a motion to reconsider, enlarge, or amend the court's order, ruling, judgment, or decree, unless the

court has modified its order, ruling, judgment, or decree and the subsequent motion is directed only at the modification.

d. Exception for final orders on partial dispositions. A final order dismissing some, but not all, of the parties or disposing of some, but not all, of the issues in an action may be appealed within the time for appealing from the judgment that finally disposes of all remaining parties and issues to an action, even if the parties' interests or the issues are severable.

COMMENT:

Rule 6.101(c). Rule 6.101(c) is intended to supersede prior case law that held a timely rule 1.904(2) motion must also have been "proper" to extend the time for appeal. *See, e.g., Hedlund v. State*, 875 N.W.2d 720, 725 (Iowa 2016). To obviate controversies over whether a rule 1.904(2) motion tolls the time for appeal, rule 6.101 authorizes any timely rule 1.904(2) motion to extend the appeal deadline, subject to an exception for successive motions.

Under rule 6.101(c), the timely filing of a rule 1.904(2) motion extends the deadline for filing a notice of appeal or an application for interlocutory appeal. *See* Iowa R. App. P. 6.101(1)(b) and 6.104(1)(b)(2). However, the rule does not address whether a rule 1.904(2) motion preserves error for purposes of appeal as to evidence or arguments raised for the first time in that motion. *See, e.g., Tenney v. Atlantic Associates*, 594 N.W.2d 11, 14 (Iowa 1999). The rule also is not intended to affect prior case law concerning a court's inherent authority to reconsider. *See Iowa Elec. Light & Power Co. v. Lagle*, 430 N.W.2d 393, 395-96 (Iowa 1988). [Court Order November 18, 2016, effective March 1, 2017]

6.101(2) Time for filing a notice of cross-appeal.

a. Termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232. In Iowa Code chapter 232 termination-of-parental-rights and child-in-need-of-assistance cases, any notice of cross-appeal must be filed within the 15-day limit for filing a notice of appeal, or within 10 days after the filing of a notice of appeal, whichever is later.

b. All other cases. In all other appeals, any notice of cross-appeal must be filed within the 30-day limit for filing a notice of appeal, or within 10 days after the filing of a notice of appeal, whichever is later.

6.101(3) Appeal taken before order or judgment filed. An appeal taken from an order or judgment of the district court shall be considered timely even though taken before the order or judgment has been filed by the clerk of the district court, if the order or judgment is filed within 30 days after the date on which the notice of appeal is filed.

6.101(4) Tolling of filing deadline by timely service. The time for filing a notice of appeal is tolled when the notice is served, provided the notice is filed with the district court clerk within a reasonable time. *See* Iowa R. Civ. P. 1.442(4).

6.101(5) Extension where clerk fails to notify. The supreme court may extend the time for filing a notice of appeal if it determines the clerk of the district court failed to notify the prospective appellant of the filing of the appealable final order or judgment. A motion for an extension of time must be filed with the clerk of the supreme court and served on all parties and the clerk of the district court no later than 60 days after the expiration of the original appeal deadline as prescribed in rule 6.101(1)(a) or (b). The motion and any resistance shall be supported by copies of relevant portions of the record and by affidavits. Any extension granted shall not exceed 30 days after the date of the order granting the motion.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.102 Initiation of appeal from a final judgment.

6.102(1) From final orders in termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232.

a. Notice of appeal. An appeal from a final order or judgment in a termination-of-parental-rights or a child-in-need-of-assistance case under Iowa Code chapter 232 is initiated by filing the notice of appeal with the clerk of the district court where the order or judgment was entered within the time provided in rule 6.101(1)(a). The notice of appeal cannot be filed unless signed by both the appellant's counsel and the appellant. The notice of appeal must follow the requirements of Iowa R. Elec. P. 16.305(5)(c)(1) for filing documents containing two or more signatures. The appellant's signature must be an original or an unaltered digitized signature. *See* Iowa R. Elec. P. 16.201(35). An informational copy of the notice of appeal must be filed electronically with the clerk of the supreme court.

(1) Contents of notice of appeal. The notice of appeal shall specify the parties taking the appeal and the decree, judgment, order, or part thereof appealed from. The notice shall substantially comply with form 4 in rule 6.1401.

(2) Special service of the notice of appeal. The notice of appeal must be served upon any court reporter who reported a proceeding that is the subject of the appeal in the manner stated in rule

6.702(4) and upon the attorney general in the manner stated in Iowa R. Civ. P. 1.442(2). The notice of appeal must include a certificate of service in the form provided in Iowa R. Civ. P. 1.442(7).

b. Petition on appeal. An appeal in a termination-of-parental-rights or a child-in-need-of-assistance case will be dismissed unless a petition on appeal is timely filed as set forth in rule 6.201(1)(b).

6.102(2) *From final orders appealable as a matter of right in all other cases.* An appeal from a final order appealable as a matter of right in all cases other than termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232 is taken by filing a notice of appeal with the clerk of the district court where the order or judgment was entered within the time provided in rule 6.101(1)(b). The notice of appeal shall be signed by either the appellant's counsel or the appellant.

a. Contents of the notice of appeal. The notice of appeal shall specify the parties taking the appeal and the decree, judgment, order, or part thereof appealed from. The notice shall substantially comply with form 1 in rule 6.1401.

b. Special service of the notice of appeal. The notice of appeal must be served upon any court reporter who reported a proceeding that is the subject of the appeal in the manner stated in rule 6.702(3). If the State is a party to the case, the notice of appeal must also be served upon the attorney general in the manner stated in Iowa R. Civ. P. 1.442(2). The notice of appeal must include a certificate of service in the form provided in Iowa R. Civ. P. 1.442(7). An informational copy of the notice of appeal must be filed electronically with the clerk of the supreme court.

6.102(3) *Filing fee.* Within seven days of filing the notice of appeal, the appellant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.702.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017; Court Order February 16, 2017, temporarily effective March 1, 2017, permanently effective April 17, 2017]

Rule 6.103 Review of final orders and judgments.

6.103(1) *Final order and judgment defined.* All final orders and judgments of the district court involving the merits or materially affecting the final decision may be appealed to the supreme court, except as provided in this rule, rule 6.105, and Iowa Code sections 814.5 and 814.6. An order granting or denying a new trial is a final order. An order setting aside a default judgment in an action for dissolution of marriage or annulment is a final order. An order setting aside a default judgment in any other action is not a final order.

6.103(2) *Attorney fee order entered after final judgment.* A final order or judgment on an application for attorney fees entered after the final order or judgment in the underlying action is separately appealable. The district court retains jurisdiction to consider an application for attorney fees notwithstanding the appeal of a final order or judgment in the action. If the final order or judgment in the underlying case is also appealed, the party appealing the attorney fee order or judgment shall file a motion to consolidate the two appeals.

6.103(3) *Interlocutory order included in appeal of final order or judgment.* No interlocutory order may be appealed until after the final judgment or order is entered except as provided in rule 6.104. Error in an interlocutory order is not waived by pleading over or proceeding to trial. If no appeal was taken from an interlocutory order or a final adjudication in the district court under Iowa R. Civ. P. 1.444 that substantially affected the rights of the complaining party, the appellant may challenge such order or final adjudication on appeal of the final order or judgment.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.104 Review of interlocutory rulings or orders.

6.104(1) *Application for interlocutory appeal.*

a. Applicability. Any party aggrieved by an interlocutory ruling or order of the district court may apply to the supreme court for permission to appeal in advance of final judgment.

b. Time for filing.

(1) Termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232. An application for interlocutory appeal in an Iowa Code chapter 232 termination-of-parental-rights or a child-in-need-of-assistance case must be filed within 15 days after entry of the challenged ruling or order. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2), the application must be filed within 15 days after the filing of the ruling on such motion. The application for interlocutory appeal cannot be filed unless signed by both the

applicant's counsel and the applicant. An application for interlocutory appeal must follow the requirements of Iowa R. Elec. P. 16.305(5)(c)(1) for filing documents containing two or more signatures. The appellant's signature must be an original or an unaltered digitized signature. *See* Iowa R. Elec. P. 16.201(35). If the application is granted, the appellant must file a petition on appeal as set forth in rule 6.201(1)(b). The failure to file a timely petition on appeal will result in the dismissal of the appeal.

(2) All other cases. An application for interlocutory appeal must be filed within 30 days after entry of the challenged ruling or order. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2), the application must be filed within 30 days after the filing of the ruling on such motion.

(3) Extensions of time. No extension of the filing deadlines in this rule will be allowed except upon a showing that the failure to file the application within the time provided was due to a failure of the clerk of the district court to notify the applicant of the ruling or order. A motion for an extension of time must be filed with the clerk of the supreme court and a courtesy copy filed with the clerk of the district court no later than 60 days after the expiration of the time for filing an application for interlocutory appeal. The motion and any resistance must be supported by copies of relevant portions of the record and by affidavits. An extension granted under this rule shall not exceed 30 days after the date of the order granting the motion.

c. Special service of the application. The application must be served upon the attorney general if the State is a party in the manner stated in Iowa R. Civ. P. 1.442(2).

d. Content and form of application. The application shall follow the content and form requirements of rules 6.1002(1) and 6.1007. In addition, the applicant shall state with particularity the substantial rights affected by the ruling or order, why the ruling or order will materially affect the final decision, and why a determination of its correctness before trial on the merits will better serve the interests of justice. The date of any impending hearing, trial, or matter needing immediate attention of the court shall be prominently displayed beneath the title of the application.

e. Filing fee. The applicant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rules 6.702(1)(b) and 6.702(2).

f. Filing of the application does not stay district court proceedings. The filing of an application for interlocutory appeal does not stay district court proceedings. The applicant may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application for a stay order by the supreme court must state the dates of any proceedings to be stayed and why a stay is necessary.

6.104(2) Resistance, consideration, and ruling. The application may be resisted and will be considered in the same manner provided for motions in rule 6.1002. The supreme court may grant permission to appeal on finding that such ruling or order involves substantial rights and will materially affect the final decision and that a determination of its correctness before trial on the merits will better serve the interests of justice. An order granting an appeal under this rule shall stay further proceedings below, may require bond, and may expedite the time for briefing and submission.

6.104(3) Procedure after order granting application. The clerk of the supreme court will promptly transmit a copy of the order granting the interlocutory appeal to all counsel of record, all parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party. The appellant must file and serve the combined certificate required by rule 6.804(1) within 14 days after the filing date of the order granting the interlocutory appeal. *See* rule 6.702(4). Further proceedings will be had pursuant to the rules of appellate procedure.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.105 Review of small claims actions. Except where the action involves an interest in real estate, no appeal shall be taken in any case originally tried as a small claim. An action originally tried as a small claim may be reviewed by the supreme court only as provided in Iowa Code section 631.16 and rule 6.106.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.106 Discretionary review.

6.106(1) Application for discretionary review.

a. Applicability. An application for discretionary review may be filed with the clerk of the supreme court to review certain orders specified by statute which are not subject to appeal as a matter of right.

b. Time for filing. An application for discretionary review must be filed within 30 days after entry of the challenged ruling, order, or judgment of the district court. However, if a motion is timely filed

under Iowa R. Civ. P. 1.904(2), the application must be filed within 30 days after the filing of the ruling on such motion. No extension of such time will be allowed except upon a showing that the failure to file the application within the time provided was due to a failure of the district court clerk to notify the applicant of the ruling, order, or judgment. A motion for an extension of time must be filed with the clerk of the supreme court and a courtesy copy filed with the clerk of the district court no later than 60 days after the expiration of the time for filing an application for discretionary review. The motion and any resistance must be supported by copies of relevant portions of the record and by affidavits. An extension granted under this rule shall not exceed 30 days after the date of the order granting the motion.

c. Special service of the application. The application must be served upon the attorney general if the State is a party in the manner stated in Iowa R. Civ. P. 1.442(2).

d. Content and form of application. The application shall follow the content and form requirements of rules 6.1002(1) and 6.1007. In addition, the applicant shall state with particularity the grounds upon which discretionary review should be granted. The date of any impending hearing, trial, or matter needing immediate attention of the court shall be prominently displayed beneath the title of the application.

e. Filing fee. The applicant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.702(1)(c) and 6.702(2).

f. Filing of the application does not stay district court proceedings. The filing of an application for discretionary review does not stay district court proceedings. The applicant may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application to the supreme court for a stay order must set forth the dates of any proceedings to be stayed and why a stay is necessary.

6.106(2) Resistance, consideration, and ruling. The application may be resisted and will be considered in the same manner provided for motions in rule 6.1002. The supreme court may grant discretionary review upon a determination that (1) substantial justice has not been accorded the applicant, (2) the grounds set forth in rule 6.104(1)(d) for an interlocutory appeal exist, or (3) the grounds set forth in any statute allowing discretionary review exist. An order allowing discretionary review under this rule may stay further proceedings below, may require bond, and may expedite the time for briefing and submission.

6.106(3) Procedure after order granting application. The clerk of the supreme court shall promptly transmit a copy of the order granting discretionary review to the attorneys of record, any parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party. The appellant must file and serve the combined certificate required by rule 6.804(1) within 14 days after the filing date of the order granting discretionary review. *See* rule 6.702(4). Further proceedings shall be had pursuant to the rules of appellate procedure.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.107 Original certiorari proceedings.

6.107(1) Petition for writ of certiorari.

a. Applicability. Any party claiming a district court judge, an associate district court judge, an associate juvenile judge, or an associate probate judge exceeded the judge's jurisdiction or otherwise acted illegally may commence an original certiorari action in the supreme court by filing a petition for writ of certiorari as provided in these rules.

b. Time for filing. A petition for writ of certiorari must be filed within 30 days after the challenged decision. However, if a motion is timely filed under Iowa R. Civ. P. 1.904(2) or Iowa R. Civ. P. 1.1007, the petition must be filed within 30 days after the filing of the ruling on such motion. No extension of such time may be allowed except upon a showing that the failure to file the petition within the time provided was due to a failure of the district court clerk to notify the plaintiff of the challenged decision. A motion for an extension of time must be filed with the clerk of the supreme court and a courtesy copy filed with the clerk of the district court no later than 60 days after the expiration of the time for filing a petition for writ of certiorari. The motion and any resistance must be supported by copies of relevant portions of the record and by affidavits. An extension granted under this rule shall not exceed 30 days after the date of the order granting the motion.

c. Special service of the petition. The petition must be served upon the attorney general if the State is a party in the manner stated in Iowa R. Civ. P. 1.442(2).

d. Content and form of petition. The caption of the petition shall name the challenging party as the plaintiff and the district court, not the judge, as the defendant. The date of any impending hearing,

trial, or matter needing immediate attention of the court shall be prominently displayed beneath the title of the petition. The petition shall follow the content and form requirements of rules 6.1002(1) and 6.1007. In addition, the petition shall state whether the plaintiff raised the issue in the district court, identify the interest of the plaintiff in the challenged decision, and state the grounds that justify issuance of the writ.

e. Filing fee. The applicant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.702(1)(d) and 6.702(2).

f. Filing of petition does not stay district court proceedings. The filing of a petition for writ of certiorari does not stay the district court proceedings. The plaintiff may apply to the district court for a continuance or a stay of proceedings or to the supreme court for a stay of proceedings. Any application to the supreme court for a stay order must state the dates of any proceedings to be stayed and why a stay is necessary.

6.107(2) *Resistance, consideration, and ruling.* A petition for writ of certiorari may be resisted and will be considered in the same manner provided for motions in rule 6.1002. An order granting the petition may stay further proceedings below, may require bond, and may expedite the time for briefing and submission. The clerk of the supreme court shall promptly transmit a copy of the ruling on the petition to the attorneys of record, any parties not represented by counsel, the clerk of the district court, and the attorney general if the State is a party.

6.107(3) *Issuance of writ.* If the petition for writ of certiorari is granted, the clerk of the supreme court shall issue a writ under its seal. The original writ shall be transmitted to the clerk of the district court and shall constitute service on the district court.

6.107(4) *Procedure after order granting petition.* The plaintiff must file and serve the combined certificate required by rule 6.804(1) within 14 days after the filing date of the order granting the petition. *See* rule 6.702(4). Further proceedings shall be had pursuant to the rules of appellate procedure. The appellate rules applicable to appellants shall apply to plaintiffs and those applicable to appellees shall apply to defendants.

6.107(5) *Representation of district court.* Parties before the district court other than the certiorari plaintiff shall be required to defend the district court and make all filings required of the defendant under these rules unless permitted to withdraw by the supreme court. A party required to defend the district court under this rule may file an application to withdraw stating (1) whether the applicant raised the issue addressed in the challenged decision in the district court, (2) the interest or lack of interest of the applicant in the challenged decision, and (3) the grounds justifying withdrawal. The application to withdraw must be served on the district court by filing the application with the clerk of the district court and on the attorney general in the manner stated in Iowa R. Civ. P. 1.442(2).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.108 Form of review. If any case is initiated by a notice of appeal, an application for interlocutory appeal, an application for discretionary review, or a petition for writ of certiorari and the appellate court determines another form of review was the proper one, the case shall not be dismissed, but shall proceed as though the proper form of review had been requested. The court may treat the documents upon which the action was initiated as seeking the proper form of review and, in appropriate cases, may order the parties to file jurisdictional statements. Nothing in this rule shall operate to extend the time for initiating a case.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.109 Parties and attorneys on appeal; caption; substitution of parties; withdrawal of counsel.

6.109(1) *Parties on appeal.* The party who files a notice of appeal is the appellant and the opposing party is the appellee. If opposing parties seek to appeal, the party who first files a notice of appeal shall be the appellant/cross-appellee and the other party shall be the appellee/cross-appellant, unless the parties otherwise agree or the supreme court otherwise orders upon motion of any party.

6.109(2) *Caption on appeal.* The appeal shall be captioned under the title given to the action in the district court, with the parties identified as appellant and appellee. Parties not involved in the appeal may be omitted from the caption. If the title does not contain the name of the appellant, the appellant's name shall be added to the caption.

6.109(3) *Substitution of party.* If substitution of a party is sought for any reason, including those stated in Iowa Rs. Civ. P. 1.221, 1.222, 1.223, 1.224, and 1.226, the person seeking the substitution must file a motion for substitution of party with the clerk of the supreme court.

6.109(4) Attorneys and guardians ad litem. The attorneys and guardians ad litem of record in the district court shall be deemed the attorneys and guardians ad litem in the appellate court unless others are retained or appointed and notice is given to the parties and the clerk of the supreme court. However, the representation of an attorney appointed for a minor child or children pursuant to Iowa Code section 598.12 ends when an appeal is taken unless the district court appoints the attorney, or a successor, for the appeal.

6.109(5) Withdrawal of counsel. An attorney may not withdraw from representation of a party before an appellate court without permission of that court unless another attorney has appeared or simultaneously appears for the party. A motion for permission to withdraw as counsel for a party must show service of the motion on the party, and must include the party's address, telephone number, and any available e-mail address. Before court-appointed trial counsel for a criminal defendant may withdraw, the court file must contain proof counsel has completed counsel's duties under Iowa R. Crim. P. 2.29(6).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.110 Protected information; confidential materials and cases; briefs not confidential.

6.110(1) Protected information.

a. When a party files any document that contains protected information as defined in Iowa R. Civ. P. 1.422(1) or a reproduction, quotation, or extensive paraphrase of material that contains protected information, the party shall omit or redact that information from the document in the manner provided by rule 1.422(1).

b. When a party files any document that contains information that may be omitted or redacted under Iowa R. Civ. P. 1.422(2) or a reproduction, quotation, or extensive paraphrase of material that contains such information, the party may omit or redact that information from the document in the manner provided by rule 1.422(2).

c. The omission or redaction of protected information is not required if the document is certified as confidential under rule 6.110(2).

6.110(2) Certification by party of confidential and protected material or cases.

a. *Confidential and protected material.* When a party files any document, except a brief, that contains material or a reproduction, quotation, or extensive paraphrase of material that is declared confidential by any statute or court rule or to which access is restricted by court order, the party must certify the document's confidential nature by including a certificate of confidentiality as the first page of the document. The certificate must contain only the caption of the case; the certificate of confidentiality, which includes the applicable statute, rule, or court order; and the signature of the party or counsel. The certificate page must substantially comply with form 11 in rule 6.1401. When filing a document that contains a certificate of confidentiality, the filer must note that fact in the appropriate place on the electronic cover sheet. *See* Iowa R. Elec. P. 16.201(16).

b. *Confidential and protected cases.* When a party files any document, except a brief, in a case declared confidential by statute or court rule or to which access is restricted by court order, the party need not certify the document's confidential nature. Briefs filed in a confidential or restricted-access case must comply with the personal privacy protection provisions in division VI of the Iowa Rules of Electronic Procedure. *See* Iowa R. Elec. P. 16.601(1).

c. *Separate appendices for confidential or protected materials.* If a case is not confidential by statute or court rule, but requires the filing of documents that include confidential or protected material, a party must file separate appendices, one containing confidential and protected materials and one containing documents having no confidential or protected material. An appendix not certified confidential becomes public record.

6.110(3) Clerk to maintain confidentiality. Upon receipt by the clerk of the supreme court of a notice, motion, appendix, district court record, portion of district court record, or other document that has been certified by a party or the clerk of the district court as confidential, the clerk shall maintain its confidentiality. If the confidential designation is not warranted, the court shall direct the clerk to file the document as a public record. Confidential documents may be inspected only by persons authorized by statute, rule, or court order to inspect such documents.

6.110(4) Responsibility of filer. It is the responsibility of the filing party to ensure that confidential or protected information is properly redacted, omitted, or certified as confidential. For purposes of this rule, a pro se litigant is the filing party of a pro se document. It is not the responsibility of the clerk of court to review filings to determine whether appropriate redactions, omissions, or certifications have been made; to redact or remove confidential or protected information from court filings; or to certify

or restrict access to confidential or protected information on its own initiative. Failure of the filing party to ensure that confidential or protected information is properly redacted, omitted, or certified as confidential may subject the filing party to sanctions by the court.

6.110(5) Briefs not confidential.

a. Briefs filed with the clerk of the supreme court shall not be confidential. A brief shall not contain a reproduction, quotation, or extensive paraphrase of material that is declared by any statute or rule of the supreme court to be confidential. Instead, a brief may include general statements of fact supported by references pursuant to rule 6.904(4) to pages of the appendix or parts of the record that are confidential.

b. The briefs in a case declared confidential by any statute or rule of the supreme court shall not be confidential and shall refer to the parties in the caption and text by first name or initials only. When a victim's name is deemed confidential by law, a brief shall refer to the victim by first name or initials only.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rules 6.111 to 6.200 Reserved.

DIVISION II

TERMINATION-OF-PARENTAL-RIGHTS AND CHILD-IN-NEED-OF-ASSISTANCE APPEALS UNDER IOWA CODE CHAPTER 232

Rule 6.201 Petition on appeal in termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232.

6.201(1) Petition on appeal.

a. Trial counsel's obligation to prepare petition. The appellant's trial counsel shall prepare the petition on appeal. Trial counsel may be relieved of this obligation by the district court only upon a showing of extraordinary circumstances.

b. Time for filing a petition on appeal. A petition on appeal must be filed with the clerk of the supreme court within 15 days after the filing of the notice of appeal with the clerk of the district court or within 15 days after the filing of an order granting an interlocutory appeal. The time for filing a petition on appeal shall not be extended.

c. Length; form; cover. The petition on appeal shall not exceed 20 pages, excluding the attachments required by rule 6.201(1)(e), and shall be in the form prescribed by rule 6.1007, except that it may be printed or duplicated on one side of the page. The cover shall be blue and shall contain:

- (1) The caption of the case.
- (2) The title of the document (Petition on Appeal).
- (3) The name of the court and judge whose decision is under review.
- (4) The name, address, telephone number, e-mail address, and fax number of counsel representing the appellant.

(5) A certificate of confidentiality in accordance with rule 6.110(2).

d. Contents of petition. The petition on appeal shall substantially comply with form 5 in rule 6.1401.

e. Attachments to petition.

(1) In an appeal from an order or judgment in a child-in-need-of-assistance proceeding, the appellant shall attach to the petition on appeal a copy of:

1. The order or judgment from which the appeal is taken.
2. Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).

(2) In an appeal from an order terminating parental rights or dismissing the termination petition, the appellant shall attach to the petition on appeal a copy of:

1. The petition for termination of parental rights and any amendments to the petition.
2. The order or judgment terminating parental rights or dismissing the termination petition.
3. Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).

(3) In an appeal from a post-termination order, the appellant shall attach to the petition on appeal a copy of:

1. The order or judgment terminating parental rights.

2. Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).
3. Any motion requesting post-termination relief.
4. Any resistance to the request for post-termination relief.
5. The post-termination order from which the appeal is taken.

6.201(2) Joinder disallowed. A party may not join in a petition on appeal that another party files separately.

6.201(3) Consequence of failure to file a timely petition on appeal. If the petition on appeal is not filed with the clerk of the supreme court within 15 days after the filing of a notice of appeal or within 15 days after the filing of an order granting an interlocutory appeal, the supreme court shall dismiss the appeal, and the clerk shall immediately issue procedendo.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rule 6.202 Response to petition on appeal in termination-of-parental-rights and child-in-need-of-assistance cases under Iowa Code chapter 232.

6.202(1) When required. A response to the petition on appeal is optional unless the appellee has filed a notice of cross-appeal, in which case a response shall be required. An optional response shall substantially comply with form 6 in rule 6.1401. If the appellee has filed a notice of cross-appeal, the response by appellee shall address the claims of error alleged in the petition on appeal, separately state the grounds for the cross-appeal, and substantially comply with form 6 in rule 6.1401.

6.202(2) Time for filing a response to a petition on appeal. A response to a petition on appeal must be filed with the clerk of the supreme court within 15 days after the service of the petition.

6.202(3) Length; form; cover. An optional response to the petition on appeal shall not exceed 20 pages; a required response shall not exceed 20 pages. A response shall be in the form prescribed by rule 6.1007, except that it may be printed or duplicated on one side of the page. The cover shall be red and shall contain:

- a. The caption of the case.
- b. The title of the document (Response to Petition on Appeal).
- c. The name of the court and judge whose decision is under review.
- d. The name, address, telephone number, e-mail address, and fax number of counsel representing the appellee.
- e. A certificate of confidentiality in accordance with rule 6.110(2).

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rule 6.203 Reply to issues raised in cross-appeal. If a notice of cross-appeal is filed, the appellant may file a reply to the cross-appeal issues within seven days after service of the appellee's response. An appellant may not file a reply if the appellee has not filed a notice of cross-appeal.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.204 Filing fee and transmission of record. Within seven days after filing the notice of appeal, the appellant shall pay the filing fee as provided in rule 6.702(1) or request waiver or deferral of the fee pursuant to rule 6.702(2). Within 30 days after the filing of the notice of appeal, the appellant shall request the clerk of the district court to transmit the record to the clerk of the supreme court. The clerk of the district court shall certify the record and its confidential nature.

6.204(1) Record on appeal in child-in-need-of-assistance appeals. In appeals from child-in-need-of-assistance proceedings, the record on appeal shall include the following:

- a. The child-in-need-of-assistance court file, including all exhibits.
- b. Any transcript of a hearing or hearings resulting in the order from which an appeal has been taken.

6.204(2) Record on appeal in termination-of-parental-rights appeals. In appeals from termination-of-parental-rights proceedings, the record on appeal shall include the following:

- a. The termination court file, including all exhibits.
- b. Those portions of the child-in-need-of-assistance court file either received as exhibits or judicially noticed in the termination proceedings.
- c. The transcript of the termination hearing.

6.204(3) *Record on appeal of post-termination rulings in termination-of-parental-rights cases.* In appeals from post-termination proceedings, the record on appeal shall include all of the following:

- a.* The order or judgment terminating parental rights.
- b.* Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).
- c.* The post-termination order from which the appeal is taken.
- d.* Any motion, resistance, or transcript relevant to the post-termination order from which the appeal is taken.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.205 Disposition.

6.205(1) *Ruling.* After reviewing the petition on appeal, any response, any reply, and the record, the appellate court may affirm or reverse the district court's order or judgment, remand the case, or set the case for briefing as directed by the appellate court.

6.205(2) *Further review.* If the court of appeals affirms or reverses the court's order or judgment or remands the case, further review pursuant to rule 6.1103 may be sought. The refusal of the court of appeals to grant full briefing shall not be a ground for further review.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.206 to 6.300 Reserved.

DIVISION III
CERTIFIED QUESTIONS OF LAW

Rule 6.301 Procedure for certification of questions of law. The procedure for answering and certifying questions of law shall be as provided in the Uniform Certification of Questions of Law Act, Iowa Code chapter 684A, and the rules of appellate procedure.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.302 Initiation of certification proceedings.

6.302(1) *Certification order.*

a. Filing. The certification order prepared by the certifying court shall be forwarded by the clerk of the certifying court under its official seal to the clerk of the supreme court, who shall file the order and assign a number to the matter. The clerk of the supreme court shall notify the certifying court that the certification order has been received.

b. Contents. The certification order shall contain all of the following:

- (1) The information required by Iowa Code section 684A.3.
- (2) The names and addresses of the interested parties or their counsel, if they are represented by counsel.
- (3) The party requesting submission of a certified question.
- (4) A designation of the party to file the first brief, if the question is certified on the court's own motion.

c. Service on attorney general. When the constitutionality of an act of the Iowa legislature is drawn into question in a certification proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party, the certifying court shall serve the certification order on the attorney general.

6.302(2) *Record.* The certifying court shall attach to its certification order a copy of the portions of its record deemed necessary for a full understanding of the question. If the entire record is not included, the supreme court may order that a copy of any portion of the remaining record be filed with the clerk of the supreme court.

6.302(3) *Parties.* The party requesting certification or, if none, the party who is to file the first brief shall be considered the appellant and shall make all filings required of the appellant under these rules.

6.302(4) *Filing fee.* The appellant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.702(1)(f) and 6.702(2).

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.303 Briefing.

6.303(1) *Form of briefs.* Briefs shall be prepared in the manner and form specified in rules 6.903 and 6.904.

6.303(2) *Filing of briefs.* The parties must file all briefs within the expedited times for filings prescribed by rule 6.902(2).

6.303(3) *Appendix.* The appendix shall be prepared in the manner and form specified in rule 6.905 to the extent possible. It shall contain the certification order and such portions of the record relevant to the question as the parties by agreement or the certifying court by order may determine.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.304 Disposition.

6.304(1) *Opinion.* Upon the filing of an opinion on a certified question, the clerk of the supreme court shall comply with Iowa Code section 684A.7.

6.304(2) *Rehearing.* A petition for rehearing shall not be allowed.

6.304(3) *Costs and fees.* Printing costs shall be certified by the parties as provided in rule 6.903(1)(h). Upon the filing of the supreme court's opinion, the clerk of the supreme court shall prepare and transmit to the clerk of the certifying court a bill of costs listing the filing fee and reasonable printing costs and the parties who paid them. The clerk of the certifying court shall be responsible for collecting and apportioning the fee and costs pursuant to Iowa Code section 684A.5. [Court Order October 31, 2008, effective January 1, 2009]

Rule 6.305 State as amicus curiae. When the constitutionality of an act of the Iowa legislature is drawn into question in a certification proceeding to which the State of Iowa or an officer, agency, or employee thereof is not a party, the attorney general shall be permitted to file an amicus curiae brief on behalf of the State, as provided in rule 6.906 on the constitutionality of the act.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.306 to 6.400 Reserved.

DIVISION IV
ABORTION NOTIFICATION APPEALS

Rule 6.401 Procedure in abortion notification appeals.

6.401(1) *Notice of appeal.* A pregnant minor may appeal from a district court order denying a petition for waiver of notification regarding abortion. The notice of appeal shall be filed within 24 hours of issuance of the district court order. The notice of appeal shall be filed with the clerk of the district court where the order was entered in person or by facsimile transmission. A list of the clerk of the district court's facsimile numbers can be found at www.iowacourts.gov. The notice shall also be filed with the clerk of the supreme court in person or by facsimile transmission at (515)242-6164. The notice of appeal shall contain the date the petition was filed. A notice of appeal is filed for purposes of this rule when it is date and time stamped if filed in person or when it is received if transmitted by facsimile.

6.401(2) *Procedure on appeal.* Within 48 hours after the filing of a notice of appeal, the court reporter shall file the original of the completed transcript with the clerk of the supreme court. The reporter shall also file a certificate with the clerk of the district court stating the date the transcript was filed in the supreme court. Within 48 hours after the filing of a notice of appeal, the clerk shall transmit to the supreme court any relevant district court documents, including the district court decision. The minor must file a written argument supporting her appeal with the clerk of the supreme court within 48 hours of filing the notice of appeal. The written argument must include a statement designating the method by which the minor chooses to receive notice of the supreme court's final decision.

6.401(3) *Decision on appeal.* The appeal shall be considered by a three-justice panel of the supreme court. It shall be considered without oral argument unless the supreme court or a justice thereof orders otherwise. A single justice may conduct a hearing, but a majority of the three-justice panel must render any decision on the appeal. The court shall consider the appeal de novo and render its decision as soon as is reasonably possible. In no event shall the court's decision be made later than 10 calendar days from the day after filing of the petition for waiver in the district court, or the 10 calendar days plus the period of time granted by the district court for any extension under Iowa Ct. R. 8.27. The court's decision may be rendered by order or opinion, and may simply state

that the district court's order is affirmed or reversed. Any decision affirming the denial of waiver of notification shall inform the minor of her right to request appointment of a therapist by the district court on remand. Notwithstanding any other rule, the panel's decision shall not be subject to review or rehearing. The clerk of the supreme court shall promptly issue procedendo once an order or opinion is filed. The minor shall be notified of the final decision in the manner designated in the written argument submitted to the court.

6.401(4) Confidentiality. Notwithstanding any other rule or statute, all documents filed in the appeal and the supreme court's docket are confidential. Any hearing held on an appeal under this rule shall be confidential. The minor may use the same pseudonym that she used in the juvenile court proceedings. Identifying information, including address, parents' names, or social security number, must not appear on any court documents. All documents must contain the juvenile court docket number for identification purposes. The only persons who may have access to the court documents and admission to any hearing are the justice(s), court staff who must have access to the records for administrative purposes, the minor, her attorney, her guardian ad litem, and the person(s) designated in writing by the minor, her attorney, or her guardian ad litem to have such access or admission. In no case may the minor's parent(s) have access to her documents or admission to any hearing.

6.401(5) Computation of time. For the purpose of this rule, any duty of filing or issuance of a decision or order that falls on a Saturday, Sunday, or legal holiday is extended to 9 a.m. on the next business day.

[Court Order October 31, 2008, effective January 1, 2009; November 1, 2016, effective March 1, 2017]

Rules 6.402 to 6.500 Reserved.

DIVISION V OTHER PROCEEDINGS

Rule 6.501 Procedure in other proceedings. Procedure in all other proceedings in the appellate courts, such as an action to invoke the supreme court's original jurisdiction shall, unless otherwise ordered, be the procedure prescribed in the rules of appellate procedure to the full extent not inconsistent with rules specifically prescribing the procedure or with a statute. An appendix under the rules of appellate procedure shall be deemed an abstract of record.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.502 to 6.600 Reserved.

DIVISION VI STAYING DISTRICT COURT JUDGMENTS AND PROCEEDINGS

Rule 6.601 Supersedeas bond.

6.601(1) Requirement of bond. Except upon order entered by the supreme court, pursuant to a procedural, appellate, or court rule, or upon order entered by the district court pursuant to rule 6.601(3), no appeal shall stay proceedings under a judgment or order unless the appellant executes a bond with sureties, to be filed with and approved by the clerk of the court where the judgment or order was entered. The condition of such bond shall be that the appellant will satisfy and perform the judgment if affirmed, or any judgment or order, not exceeding in amount or value the obligation of the judgment or order appealed from, which an appellate court may render or order to be rendered by the district court; and also all costs and damages adjudged against the appellant on the appeal, and all rents from or damage to property during the pendency of the appeal of which the appellee is deprived by reason of the appeal.

6.601(2) Amount of bond. If the judgment or order appealed from is for money, such bond shall be 110 percent of the amount of the money judgment, unless the district court otherwise sets the bond at a higher amount pursuant to the provisions of Iowa Code section 625A.9(2)(a). In no event shall the bond exceed the maximum amount set forth in Iowa Code section 625A.9(2)(b). In all other cases, the bond shall be an amount sufficient to save the appellee harmless from the consequences of the appeal, but in no event less than \$1000.

6.601(3) Bond by State or political subdivision. Upon motion and for good cause shown, the district court may stay all proceedings under the order or judgment being appealed and permit the

State or any of its political subdivisions to appeal a judgment or order to the supreme court without the filing of a supersedeas bond.

6.601(4) *Effect on judgment.* No appeal shall vacate or affect the judgment or order appealed from; but the clerk shall issue a written order requiring the appellee and all others to stay proceedings under it or such part of it as has been appealed from, when the appeal bond is filed and approved.

6.601(5) *Form of bond.* An appeal bond secured by cash, a certificate of deposit, or government security in a form and in an amount approved by the clerk may be filed in lieu of other bond. If a cash bond is filed, the cash shall be deposited at interest with interest earnings being paid into the general fund of the State in accordance with Iowa Code section 602.8103(5). The cash bond shall be disbursed pursuant to court order upon the district court's receipt of the procedendo.

6.601(6) *Child custody.* A supersedeas bond filed pursuant to this rule shall not stay an order, judgment, decree, or portion thereof affecting the custody of a child. Requests for stays involving child custody are governed by rule 6.604.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.602 Sufficiency of bond. If any party to an appeal is aggrieved by the clerk's approval of, or refusal to approve, a supersedeas bond tendered by the appellant, the party may apply to the district court, on at least three days' notice to the adverse party, to review the clerk's action. Pending such hearing, the court may recall or stay all proceedings under the order or judgment appealed from. On such hearing, the district court shall determine the sufficiency of the bond, and if the clerk has not approved the bond, the court shall, by written order, fix its conditions and determine the sufficiency of the security; or if the court determines that a bond approved by the clerk is insufficient in security or defective in form, it shall discharge such bond and fix a time for filing a new one, all as appears by the circumstances shown at the hearing.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.603 Judgment on bond. If an appellate court affirms the judgment appealed from, it may, on motion of the appellee, render judgment against the appellant and the sureties on the appeal bond for the amount of the judgment, with damages and costs; or it may remand the cause to the district court for the determination of such damages and costs and entry of judgment on the bond.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.604 Stays involving child custody.

6.604(1) *Application.* A supersedeas bond filed pursuant to rule 6.601 shall not stay an order, judgment, decree, or portion thereof affecting the custody of a child. Upon application in a pending appeal, the appellate court may, in its discretion, stay any district court order, judgment, decree, or portion thereof affecting the custody of a child and provide for the custody of the child during the pendency of the appeal.

6.604(2) *Resistance.* An application for a stay pending appeal of any order, judgment, or decree affecting the custody of a child may be resisted and will be ruled upon as provided in rule 6.1002, unless otherwise ordered. Pending consideration of the application for a stay pending appeal, the appellate court may immediately order a temporary stay pursuant to rule 6.1002(4).

6.604(3) *Considerations in granting stay.* The best interests of the child shall be the primary consideration in deciding whether to grant the application for a stay order. The best interests of the child likewise shall be paramount in determining where to place custody of the child during the pendency of the appeal. Additional considerations include, but are not limited to, the following factors when they appear:

- a. The circumstances giving rise to the adjudication being appealed.
- b. The safety and protection of the child.
- c. The safety and protection of the community and the likelihood of serious violence.
- d. The need to quickly begin treatment or rehabilitation of the child.
- e. The likelihood of the child fleeing or being removed from the jurisdiction during the pendency of the appeal or not appearing at further court proceedings.
- f. The availability of custody placement alternatives.
- g. The child's family ties, employment, school attendance, character, length of residence in the community, and juvenile court record.
- h. The likelihood of a reversal of the district court order, judgment, or decree on appeal.

6.604(4) *Burden.* The applicant seeking the stay order shall have the burden of showing that such a stay or alternative custody placement of the child pending appeal is in the child's best interests. [Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rules 6.605 to 6.700 Reserved.

DIVISION VII **FILING, SERVICE, AND FEES**

Rule 6.701 Filing.

6.701(1) *Filing with the clerk of the supreme court.* Documents required or permitted to be filed in the supreme court or in the court of appeals must be filed with the clerk of the supreme court. All documents required to be served upon a party must be filed with the court before or at the time of service or within a reasonable time thereafter. Whenever these rules require a filing with the supreme court or its clerk within a certain time, the time requirement shall be tolled when service is made, provided the actual filing is done within a reasonable time thereafter. Documents received by the clerk of the supreme court without a certificate of service shall be deemed filed when received by the clerk.

6.701(2) *Emailing or faxing documents does not constitute electronic filing.* Emailing or faxing a document to the clerk of the supreme court or to an appellate court will not generate a file stamp or a notice of electronic filing or presentation and will not result in the filing of the document. *See* Iowa Rs. Elec. P. 16.201(23), 16.306. Documents transmitted to the clerk of the supreme court or to an appellate court by fax or email will only be filed if the party is authorized to submit the document in that manner under rule 6.100(3) (exemptions from mandatory use of EDMS). Documents from an exempted party transmitted by fax or email may only be transmitted pursuant to a prior arrangement with the clerk of the supreme court. Failure to comply with the submission requirements may result in the imposition of sanctions: the document transmitted may be stricken or deemed not filed, the appeal or review may be dismissed, or other appropriate action may be taken. Documents submitted by fax are subject to a fax fee of \$3 per page, excluding the cover page. [Court Order October 31, 2008, effective January 1, 2009; June 29, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.702 Service.

6.702(1) *Filer's duty to ensure service.* Documents filed with the clerk of the supreme court must be served on all other parties to the appeal or review and on any nonparty required to be served by these rules unless the appropriate appellate court orders otherwise. The filer must ensure that all required service is accomplished pursuant to Iowa Rs. Elec. P. 16.315 and 16.319(1)(c).

6.702(2) *Electronic service on registered filers.* Filed documents are electronically served pursuant to Iowa R. Elec. P. 16.315(1). Electronic service is not effective if the filer learns that the notice of electronic filing was not transmitted to a party.

6.702(3) *Service of paper copies on nonregistered parties.* The filer must serve nonregistered (exempted) filers and not-yet-registered filers in paper pursuant to Iowa R. Elec. P. 16.315(2). A certificate of service must be filed for all documents not served by EDMS pursuant to Iowa R. Elec. P. 16.316.

6.702(4) *Service on court reporters.* Required service on a court reporter must be made by email, mail, fax, or hand-delivery.

6.702(5) *Additional time after service.* Whenever a party is required or permitted to do an act within a prescribed period after service of a document upon that party and the document is served by mail, email, or fax transmission, three days shall be added to the prescribed period. Such additional time shall not be applicable where the deadline runs from entry or filing of a judgment, order, decree or opinion.

[Court Order November 18, 2016, effective March 1, 2017]

Rule 6.703 Filing fees and copies.

6.703(1) *Filing fees.*

a. Appeal from final order or judgment. The fee for filing a notice of appeal from a final order or judgment is \$150. The appellant shall pay the fee to the clerk of the supreme court within seven

days after filing the notice of appeal. If the court determines the appeal is not from a final order or judgment, the clerk shall not refund any part of the filing fee.

b. Application for interlocutory appeal. The fee for filing an application for interlocutory appeal is \$100. The appellant shall pay the fee to the clerk of the supreme court at the time the application is filed. If the application is granted, the appellant shall pay an additional \$50 fee within seven days after the order granting the application is filed.

c. Application for discretionary review. The fee for filing an application for discretionary review is \$100. The appellant shall pay the fee to the clerk of the supreme court at the time the application is filed. If the application is granted, the appellant shall pay an additional \$50 fee within seven days after the order granting the application is filed.

d. Petition for writ of certiorari. The fee for filing a petition for writ of certiorari is \$100. The certiorari plaintiff shall pay the fee to the clerk of the supreme court at the time the petition is filed. If the petition is granted, the plaintiff shall pay an additional \$50 fee within seven days after the order granting the petition is filed.

e. Original proceeding other than certiorari. The fee for filing an original proceeding other than certiorari is \$150. The initiating party shall pay the fee to the clerk of the supreme court at the time the proceeding is filed.

f. Certified questions of law. The fee for filing a certification order is \$150. The appellant shall pay the fee to the clerk of the supreme court within seven days after the certification order is filed.

g. Application for further review. The fee for filing an application to the supreme court for further review of a decision of the court of appeals is \$75. The applicant shall pay the fee to the clerk of the supreme court at the time of filing the application for further review.

6.703(2) Waiver or deferral of filing fees.

a. Waiver of filing fees.

(1) State as filing party. If the State of Iowa is the filing party, the clerk shall waive any filing fees.

(2) Criminal defendant as filing party. If a criminal defendant is the filing party and there has been a district court finding of indigency, the clerk shall waive any filing fees upon the defendant's motion. The defendant's motion to waive the filing fee shall be accompanied by a copy of the district court's order finding the defendant indigent. If a criminal defendant is the filing party and the appellate defender's office has been appointed to represent the defendant, the clerk shall waive any filing fees.

(3) Postconviction applicant as filing party. If an applicant under Iowa Code section 822.9 of the Uniform Postconviction Procedure Act is the filing party and there has been a district court finding of indigency, the clerk shall waive any filing fees upon the applicant's motion. The applicant's motion to waive the filing fee shall be accompanied by a copy of the district court's order finding the applicant indigent.

(4) Waiver of filing fee authorized by other rule or statute. If waiver of the filing fee is otherwise authorized by a rule or statute, the clerk shall waive the filing fee upon motion. The motion shall state the applicable rule or statute which authorizes waiver of the filing fee.

b. Deferral of filing fee. If a rule, statute, or court order authorizes a party to defer payment of a filing fee, the clerk shall enter an order deferring the fee upon motion. The motion shall state the applicable rule or statute, or have attached the court order which authorizes deferral of the filing fee.

6.703(3) Copies. The fee for providing paper copies of documents is 50 cents for each page. The fee for providing electronic copies of documents is 50 cents for each page for documents of fewer than ten pages and \$5 for each document or part thereof for documents of ten or more pages. An additional fee of \$10 applies for a certified copy of a document.

[Court Order October 31, 2008, effective January 1, 2009; December 18, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rules 6.704 to 6.800 Reserved.

**DIVISION VIII
RECORD ON APPEAL**

Rule 6.801 Composition of record on appeal. Only the original documents and exhibits filed in the district court case from which the appeal is taken, the transcript of proceedings, if any, and a

certified copy of the related docket and court calendar entries prepared by the clerk of the district court constitute the record on appeal.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rule 6.802 Transmission of record.

6.802(1) *Transmission of notice of appeal and the combined general docket.* The clerk of the district court will electronically transmit certified copies of the notice of appeal, the notice of cross-appeal, if any, and the combined general docket in the district court proceeding to the clerk of the supreme court, any court reporter who reported a proceeding that is the subject of the appeal, and the attorney general in juvenile cases and other cases in which the State of Iowa is an interested party whether or not the attorney general has appeared in the district court. Transmission must be completed within four days after the filing of the notice of appeal or the notice of cross-appeal, if any.

6.802(2) *Transmission of record on appeal.* No later than seven days after all briefs in final form have been filed or the times for filing them have expired, the appellant must file a request with the clerk of the district court to transmit the record to the clerk of the supreme court. If the appeal is from a termination-of-parental-rights or a child-in-need-of-assistance case, the appellant must file a request with the clerk of the district court to transmit to the clerk of the supreme court any remaining record within 30 days after the filing of the notice of appeal. Any nonelectronic document or exhibit that may reasonably be maintained electronically must be converted to an electronic document and transmitted to the clerk of the supreme court electronically. Physical media such as CDs, DVDs, or USB drives containing electronic documents or exhibits that cannot be maintained by EDMS shall be transmitted to the clerk of the supreme court with the record. Nonelectronic exhibits of unusual bulk or weight shall not be transmitted by the clerk unless a party or the clerk of the supreme court requests transmission. A party must make advance arrangements with the clerk of the district court for the transmission and the clerk of the supreme court for the receipt of exhibits of unusual bulk or weight.

6.802(3) *Request to transmit record in Iowa Rule of Appellate Procedure 6.1005 cases.* At the time of filing a motion to withdraw pursuant to rule of appellate procedure 6.1005(2), counsel must file a request with the clerk of the district court to transmit the record to the clerk of the supreme court. See rule 6.1005(4).

6.802(4) *Certification of confidential record.* Whenever the clerk of the district court transmits to the clerk of the supreme court or to a party a district court record or any portion of a district court record that is declared by any statute or rule of the supreme court to be confidential, the clerk of the district court shall certify its confidential nature. The certificate shall cite the applicable statute or rule, be signed by the clerk of the district court, and be affixed on top of the cover page of the record or portion of the record.

6.802(5) *Retention of trial record in district court.* If the record or any part of it is required in the district court for use pending the appeal, the district court may order its retention. In such cases, the clerk of the district court shall retain the record or parts of it in compliance with the district court's order and shall transmit to the clerk of the supreme court a copy of the order, a certified copy of the records retained pursuant to the order, and the remaining records that are not retained under the district court's order. The appellate court may require transmission of an original record retained pursuant to the order. The parts of the record not transmitted to the clerk of the supreme court shall be part of the record on appeal for all purposes.

6.802(6) *Portions of record not transmitted.* Any parts of the record not transmitted to the clerk of the supreme court shall, on request of an appellate court or any party, be transmitted by the clerk of the district court to the clerk of the supreme court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.803 Transcript.

6.803(1) *Ordering transcript.* Within seven days after filing the notice of appeal, the appellant must use the combined certificate to order in writing from the court reporter a transcript of such parts of the proceedings not already on file as the appellant deems necessary for inclusion in the record. If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all evidence relevant to such finding or conclusion.

6.803(2) *Form of transcript.* The following transcript format requirements must be followed whether the transcript is produced in printed or electronic format.

a. Page layout. A page of transcript must consist of no fewer than 25 lines per page of type on document pages 8 1/2 by 11 inches in size. Margins must be 1 1/8 inches on each side and 1 inch on the top and bottom. Pages must be numbered consecutively in the upper right-hand corner. If the transcript for a proceeding consists of multiple volumes, the volumes must not be consecutively paginated.

b. Font. A monospaced typeface may not contain more than 10 characters per inch. Font size shall be 12 point.

c. Question-and-answer form. Questions and answers shall each begin a new line of transcript. Indentations for speakers or paragraphs shall not be more than 10 spaces from the left-hand margin. Testimony of a new witness may be started on a new page where the prior witness's testimony ends below the center of the preceding page.

d. Index. Transcripts shall include an index of witnesses and exhibits.

e. Reporter's certificate of filing the transcript. In addition to the transcript, the reporter shall prepare and file with the clerk of the supreme court a reporter's certificate of filing the transcript. The certificate must contain the case caption, the date the transcript was ordered, the name of the attorney or other person ordering the transcript, and the date it was filed with the district court.

f. Condensed transcripts not permitted. Condensed transcripts, which include multiple pages of transcript on a single page, may not be submitted.

g. Format of electronic transcripts. Electronic transcripts must be prepared to be text searchable and comply with Iowa R. Elec. P. 16.402.

6.803(3) *Filing transcript.* The reporter will file the transcript with the clerk of the district court and file the reporter's certificate of filing the transcript with the clerk of the supreme court. The transcript and the reporter's certificate of filing the transcript must be filed within the following number of days from service of the combined certificate:

a. 20 days — guilty pleas and sentencing.

b. 30 days — child-in-need-of-assistance and termination-of-parental-rights proceedings under chapter 232.

c. 40 days — all other cases.

If a reporter cannot file the transcript and certificate of filing the transcript in the time allowed under this rule, the reporter shall file with the clerk of the supreme court an application for extension of time and shall serve a copy on all counsel of record, any unrepresented parties, and the chief judge of the judicial district. The application shall include the estimated date of completion, the approximate page length of the transcript, and the grounds for requesting the extension.

6.803(4) *Charges for transcription.* Pursuant to Iowa Code section 602.3202, the maximum compensation of reporters for transcribing their official notes shall be as provided in Iowa Ct. R. 22.28.

6.803(5) *Payment for transcript.* The ordering party must make satisfactory arrangements with the reporter for payment of the transcript costs. The cost of the transcript shall be taxed in the district court.

6.803(6) *Notice of filing transcript.* The clerk of the supreme court shall give notice, in a notice of the briefing deadline, to all parties or their attorneys of the date on which the last transcript ordered for the appeal was filed.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009; November 18, 2016, effective March 1, 2017; December 6, 2016, effective March 1, 2017]

Rule 6.804 Combined certificate.

6.804(1) *Duty of the appellant to file combined certificate.* In all cases, the appellant must complete the combined certificate form found in form 2 in rule 6.1401. The combined certificate must be separately filed with the clerks of both the district court and the supreme court within seven days after filing the notice of appeal or appointment of new appellate counsel, whichever is later. The appellant must serve the combined certificate on each court reporter from whom a transcript was ordered. *See* rule 6.702(4).

6.804(2) *Certification of ordering transcript.* If a report of the evidence or proceedings at a hearing or trial was made and is available and the appellant deems some or all of that report necessary for inclusion in the record on appeal, the appellant shall certify in the combined certificate that the transcript has been ordered. This certification shall be deemed a professional statement by

the attorney signing it that the transcript has been ordered in good faith, that no arrangements have been made or suggested to delay the preparation of the transcript, and that payment for the transcript will be made in accordance with these rules.

6.804(3) *Appellant's designation of parts of transcript ordered.* Unless all of the proceedings are to be transcribed, the appellant shall describe in the combined certificate the parts of the proceedings ordered transcribed and state the issues appellant intends to present on appeal.

6.804(4) *Statement that expedited deadlines apply.* The appellant shall indicate in the combined certificate whether the expedited deadlines of rule 6.902 apply.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.805 Appellee's designation of additional parts of transcript.

6.805(1) *Appellee's designation.* If the appellee deems a transcript of other parts of the proceedings to be necessary, the appellee must separately file a designation of additional parts to be transcribed with the clerks of both the district court and the supreme court and must serve the designation on the court reporter within ten days after service of the combined certificate.

6.805(2) *Disputes regarding transcription.* The parties are encouraged to agree on which parts of the proceedings are to be transcribed. Any disputes concerning which parts of the proceedings are to be transcribed and which party is to advance payment to the reporter for transcription are to be submitted to the district court. If the appellant shall within four days fail or refuse to order such parts, the appellee shall either order the parts or apply to the district court to compel the appellant to do so.

6.805(3) *Supplemental certificate.* Within seven days after the appellee has served a designation of additional parts of the proceedings requested to be transcribed, the party ordering additional proceedings must use the supplemental certificate found in form 3 in rule 6.1401 to order the additional proceedings transcribed, serve it on the court reporter, and file it with the clerks of both the district court and the supreme court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.806 Proceedings when transcript unavailable.

6.806(1) *Statement of the evidence or proceedings.* A statement of the proceedings may be prepared to create a record of a hearing or trial for which a transcript is unavailable if a party deems it necessary to complete the record on appeal. The statement of the proceedings must be prepared from the best available means, including the party's recollection. The statement must be filed with the clerk of the district court within 20 days after the filing of the notice of appeal or within 10 days after the party discovers a transcript of a proceeding is unavailable.

6.806(2) *Objections to statement.* The opposing party may file with the clerk of the district court objections or proposed amendments to the statement within ten days after service of the statement.

6.806(3) *Approval of statement by district court.* The statement and any objections or proposed amendments shall be submitted to the district court for settlement and approval. The statement as settled and approved shall be filed with the clerk of the district court and the clerk of the supreme court.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rule 6.807 Correction or modification of the record. If any difference arises as to whether the record truly discloses what occurred in the district court, commission, agency, or other tribunal, the difference shall be submitted to and settled by that court, commission, agency or other tribunal and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation or the district court, commission, agency, or other tribunal, either before or after the record is transmitted to the supreme court, or the appropriate appellate court on proper suggestion or on its own initiative, may direct that the omission or misstatement be corrected and if necessary that a supplemental record be certified and transmitted. A copy of any request to correct or modify the record shall be filed with the clerk of the supreme court. All other questions as to the form and content of the record shall be presented to the supreme court, unless the questions arise after the case has been transferred to the court of appeals, in which event, they shall be presented to that court.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009]

Rules 6.808 to 6.900 Reserved.

DIVISION IX
BRIEFS AND APPENDIX

Rule 6.901 Filing and service of briefs and amendments.

6.901(1) Time for filing proof briefs. Except for cases expedited under rule 6.902, the following filing deadlines shall apply:

a. Appellant's proof brief. The appellant shall file a proof copy of the appellant's brief within 50 days after the date the clerk gives the notice of the briefing deadline required under rule 6.803(6) that the last transcript ordered for the appeal has been filed. If no transcript is ordered or if the transcript is unavailable, the appellant shall file a proof copy of the appellant's brief within 50 days after the clerk gives notice of the briefing deadline.

b. Appellee's proof brief. Within 30 days after service of the appellant's proof brief, the appellee shall file either a proof copy of the appellee's brief, a written statement under rule 6.903(3) waiving the brief, or a combined appellee's/cross-appellant's brief pursuant to rule 6.903(5).

c. Reply briefs. If a cross-appeal has not been filed, the appellant may file a proof copy of a reply brief within 21 days after service of the appellee's proof brief. If a cross-appeal has been filed, the appellant/cross-appellee shall respond within 21 days after service of the appellee/cross-appellant's proof brief by filing either a proof copy of a reply brief or a statement waiving any further proof brief. If the appellant/cross-appellee files a reply brief, the appellee/cross-appellant may file a reply brief in final form under rule 6.903(5) within 14 days after service of the appellant's/cross-appellee's reply brief.

d. Counsel's duty to serve brief on defendant, applicant, or respondent. In addition to the service requirements of rule 6.702, appellate counsel for a criminal defendant, a postconviction applicant, or a respondent committed under Iowa Code chapter 229A must serve a copy of counsel's proof brief and designation of parts upon the defendant, applicant, or respondent. Counsel must indicate such service in the certificate of service on the proof brief and on the designation of parts. The certificate of service must include the address at which the defendant, applicant, or respondent was served.

6.901(2) Pro se supplemental briefs.

a. Filing of supplemental brief. Any criminal defendant, applicant for postconviction relief, or respondent committed under Iowa Code chapter 229A may submit a pro se supplemental brief or designation of appendix to the clerk of the supreme court within 15 days after service of the proof brief filed by their counsel. Any pro se supplemental brief or designation submitted beyond this period by a properly served defendant, applicant, or respondent will not be considered by the court and no response by the State will be allowed. The pro se supplemental brief cannot exceed more than one-half of the length limitations for a required brief specified in rule 6.903(1)(f) unless otherwise ordered by the court for good cause shown. A pro se supplemental brief may be filed by the pro se filer or by the pro se filer's counsel.

b. Pro se as appellant. If the defendant, applicant, or respondent is the appellant, the State's proof brief must be filed within 30 days after service of the pro se supplemental brief, and the State must serve a copy of its proof brief upon the appellant. Within the time provided for the appellant's counsel to file a reply brief, the appellant may also file a pro se supplemental reply brief. The pro se supplemental reply brief cannot exceed more than one-half of the length limitations for a reply brief specified in rule 6.903(1)(f) unless otherwise ordered by the court for good cause shown. Counsel for the appellant shall be responsible for including any additional designated parts of the record in the appendix.

c. State as appellant. If the State is the appellant, the State must serve and file the appendix and a reply brief, if any, within 21 days after service of the pro se supplemental brief, and the State shall be responsible for including any additional designated parts in the appendix.

d. Counsel's duty to ensure filing and service of supplemental briefs. Counsel for the defendant, applicant, or respondent must ensure that pro se supplemental briefs have been electronically filed and ensure that service has been accomplished pursuant to rule 6.702.

6.901(3) Time for filing briefs in final form. Within 14 days after service of the appendix pursuant to rule 6.905(11), each party must file the party's brief or briefs in the final form prescribed by rule 6.903 and 6.904(4)(b).

6.901(4) Other supplemental briefs. If the appellate court concludes supplemental briefs from the parties will assist the court in deciding any issue in the case, it shall file an order prescribing the issue or issues to be addressed, the length of such brief, and the schedule for filing them.

6.901(5) *Multiple adverse parties.* If the time for doing any act prescribed by these rules is measured from the date of service of a document by an adverse party, then in the case of multiple adverse parties the time for doing such act shall be measured from the date of service of the last timely served document by an adverse party or the date of expiration of time for such service.

6.901(6) *Amendments.* An appellant may amend a required brief once within 15 days after serving the brief, provided no brief has been served in response to it. The time for serving and filing of the appellee's brief shall be measured from the date of service of the amendment to the appellant's brief. An appellee's brief may be amended once within 10 days after service, provided no brief has been served in reply to it. The time for serving and filing the appellant's reply brief shall be measured from the date of service of the amendment to the appellee's brief. A reply brief may be amended once within seven days after it is served. Any other amendments to the briefs may be made only with leave of the appropriate appellate court. An amendment may be conditionally filed with a motion for leave.

6.901(7) *Deadlines shortened by order.* The supreme court may shorten the periods for serving and filing proof and final briefs.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.902 Cases involving expedited times for filing briefs and appendix.

6.902(1) *Expedited cases.* The following cases shall be expedited on appeal:

- a. Child custody.
- b. Adoption.
- c. Termination-of-parental-rights cases under Iowa Code chapter 600A.
- d. Child-in-need-of-assistance or termination-of-parental-rights cases under Iowa Code chapter 232 (when full briefing has been granted).
- e. Criminal proceedings in which an appeal is taken from a judgment and sentence entered upon a guilty plea or from the sentence only.
- f. Juvenile proceedings affecting child placement.
- g. Lawyer disciplinary matters.
- h. Involuntary mental health commitments under Iowa Code chapter 229.
- i. Involuntary substance abuse commitments under Iowa Code chapter 125.
- j. Certified questions under Iowa Code chapter 684A.

6.902(2) *Filing deadlines.* The time for serving and filing proof briefs, other than reply briefs, and the time for designating the contents of the appendix shall be reduced by one-half of the time provided in rules 6.901(1) and 6.905(1)(b). The appendix and reply briefs, except an appellee/cross-appellant's reply brief, shall be served and filed not more than 15 days after service or expiration of the time for service of the appellee's proof brief, and printed or duplicated copies of all the briefs in final form shall be served and filed within seven days after service of the appendix. An appellee/cross-appellant's reply brief may be served and filed not more than seven days after service of the appellant's/cross-appellee's reply brief. The litigants will not be given extensions of time in which to comply with the expedited deadlines except upon a showing of the most unusual and compelling circumstances.

6.902(3) *Priority.* Each case subject to this rule shall be given the highest priority at all stages of the appellate process. These appeals shall be accorded submission precedence over other civil cases.

6.902(4) *Transcripts.* Court reporters shall give priority to transcription of proceedings in these cases over other civil transcripts.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.903 Briefs.

6.903(1) *Form of briefs.*

a. *Reproduction.* A brief must show clear black text or images on a white background. A brief filed in paper may be reproduced by any process that yields a clear black image on white paper. The paper must be opaque and unglazed. Briefs filed in paper must comply with Iowa R. Elec. P. 16.303.

b. *Form of front covers.* The front covers of the briefs shall contain:

- (1) The name of the court and the appellate number of the case.
- (2) The caption on appeal. *See* rule 6.109(2).
- (3) The nature of the proceeding (e.g., Appeal, Certiorari) and the name of the court and judge, agency, or board whose decision is under review.
- (4) The title of the document (e.g., Brief for Appellant).

(5) The name, address, telephone number, e-mail address, and fax number of counsel or the self-represented party filing the brief.

c. Searchable .pdfs. Every appellate brief must be filed into the appellate case as a searchable .pdf document.

d. Document size, line spacing, margins, and page numbering. The brief must be an 8½ by 11 inch document. The text must be double-spaced, but quotations more than 40 words long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be 1¼ inches on each side and 1 inch on the top and bottom. Page numbers must be located at the bottom center of each page. The pages must be numbered consecutively using Arabic whole numbers. The cover page must be numbered page one. Any blank pages must be numbered. Roman numerals may not be used as page numbers. Page numbers must match the digital page numbers of the electronic document.

e. Typeface. Either a proportionally spaced or a monospaced typeface may be used.

(1) A proportionally spaced typeface must include serifs, but sans-serif type may be used in headings and captions. A proportionally spaced typeface must be 14 point or larger for all text, including footnotes. Examples of proportionally spaced typeface with serifs that can be used in the body of a brief are Cambria, Bookman Old Style, Century Schoolbook, Times New Roman, Baskerville Old Face, Garamond, or Georgia.

(2) A monospaced typeface may not contain more than 10 1/2 characters per inch for all text, including footnotes. Examples of monospaced typeface that can be used in the body of a brief are Courier 12 point and Consolas 12 point.

f. Type styles. A brief must be set in a plain style. Italics or boldface may be used for emphasis. Case names must be italicized or underlined.

g. Length. The maximum length of a brief is determined by whether it is printed or handwritten.

(1) Proportionally spaced typeface. If a required brief uses a proportionally spaced typeface it shall contain no more than 14,000 words. A reply brief shall contain no more than half of the type volume specified for a required brief. The headings, footnotes, and quotations count toward the word limitation. The table of contents, table of authorities, statement of the issues, and certificates do not count toward the word limitation.

(2) Monospaced typeface. If a required brief uses a monospaced typeface it shall contain no more than 1,300 lines of text. A reply brief shall contain no more than half of the type volume specified for a required brief. The headings, footnotes, and quotations count toward the line limitation. The table of contents, table of authorities, statement of the issues, and certificates do not count toward the line limitation.

(3) Handwritten briefs. A required brief that is handwritten may not exceed 50 pages or a reply brief 25 pages. The headings, footnotes, and quotations count toward the page limitation. The table of contents, table of authorities, statement of the issues, and certificates do not count toward the page limitation.

(4) Certificate of compliance. A brief submitted under rule 6.903(1)(g)(1) or (2) must include a certificate of compliance using form 7 of rule 6.1401.

h. Printing or duplicating taxed as costs. To the extent reasonable, the costs of printing or duplicating a brief may be taxed in the appellate court as costs. Reasonable printing or duplicating costs may not exceed actual costs or \$1 per page, whichever is lower, unless otherwise ordered by the appropriate appellate court. The costs of any printing or duplication not required by these rules may not be taxed as costs.

6.903(2) Appellant's brief. The appellant shall file a brief containing all of the following under appropriate headings and in the following order:

a. A table of contents. The table of contents shall contain page references.

b. A table of authorities. The table of authorities shall contain a list of cases (alphabetically arranged), statutes, and other authorities cited, with references to all pages of the brief where they are cited.

c. A statement of the issues presented for review. Each issue shall be numbered and stated separately in the same order as they are presented in the argument. All authorities referred to in the argument shall be listed under each issue.

d. A routing statement. The routing statement shall indicate whether the case should be retained by the supreme court or transferred to the court of appeals and shall refer to the applicable criteria in rule 6.1101.

e. A statement of the case. The statement shall indicate briefly the nature of the case, the relevant events of the prior proceedings, and the disposition of the case in the district court. If a defendant appeals from a criminal conviction, the statement shall include the crimes for which the defendant was convicted and the sentence imposed. All portions of the statement shall be supported by appropriate references to the record or the appendix in accordance with rule 6.904(4).

f. A statement of the facts. The statement shall recite the facts relevant to the issues presented for review. All portions of the statement shall be supported by appropriate references to the record or the appendix in accordance with rule 6.904(4).

g. An argument section. The argument section shall be structured so that each issue raised on appeal is addressed in a separately numbered division. Each division shall include in the following order:

(1) A statement addressing how the issue was preserved for appellate review, with references to the places in the record where the issue was raised and decided.

(2) A statement addressing the scope and standard of appellate review (e.g., “de novo,” “correction of errors of law,” “abuse of discretion”), citing relevant authority.

(3) An argument containing the appellant’s contentions and the reasons for them with citations to the authorities relied on and references to the pertinent parts of the record in accordance with rule 6.904(4). Failure to cite authority in support of an issue may be deemed waiver of that issue.

h. A conclusion. A short conclusion stating the precise relief sought.

i. A request for oral or nonoral submission. A request to submit the case with or without oral argument.

j. Certificate of cost. The amount actually paid for printing or duplicating paper copies of briefs in final form required by these rules must be certified by the attorney.

6.903(3) Appellee’s brief. The appellee shall file a brief or a statement waiving the appellee’s brief. If the appellee files a brief, the brief shall conform to the requirements of rule 6.903(2), except that a statement of the case or a statement of the facts need not be included unless the appellee is dissatisfied with the appellant’s statements. Each division of the appellee’s argument shall begin with a discussion of whether the appellee agrees with the appellant’s statements on error preservation, scope of review, and standard of review.

6.903(4) Appellant’s reply brief. The appellant may file a brief in reply to the brief of the appellee. The reply brief does not need to contain the sections required by rule 6.903(2)(d), 6.903(2)(e), 6.903(2)(f), 6.903(2)(g)(1), 6.903(2)(g)(2), or 6.903(2)(i). Unless a cross-appeal is filed, no further briefs may be filed without leave of the appropriate appellate court.

6.903(5) Briefs in cross-appeals. The brief of the appellee/cross-appellant shall respond to the brief of the appellant and then address the issues raised in the cross-appeal. The appellant/cross-appellee shall file a reply brief responding to the issues presented by the cross-appeal or a statement waiving the reply brief. The appellee/cross-appellant may file a reply brief responding to the appellant/cross-appellee’s reply brief.

6.903(6) Multiple appellants or appellees. In a case involving a cross-appeal, an appellee who has not filed a cross-appeal shall file a brief that either responds to or waives response to the issues raised in the appellant’s brief, and then addresses the issues raised in the cross-appeal. The appellant shall then file either a brief that addresses the appeal and/or cross-appeal issues, or a statement waiving any responsive brief. If the appellant files a brief that addresses the cross-appeal issues, the appellee may file a reply brief limited to those issues.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rule 6.904 References in briefs.

6.904(1) To the parties. In briefs counsel should minimize references to parties by such designations as “appellant” and “appellee” and should use the actual names of the parties or descriptive terms such as “the plaintiff,” “the defendant,” “the employee,” “the injured person,” “the taxpayer,” or “the decedent.”

6.904(2) To legal authorities.

a. Cases. In citing cases, the names of parties must be given. In citing Iowa cases, reference must be made to the volume and page where the case may be found in the North Western Reporter. If the case is not reported in the North Western Reporter, reference must be made to the volume and page where the case may be found in the Iowa Reports. In citing cases, reference must be made to the court that rendered the opinion and the volume and page where the opinion may be found in the National

Reporter System, if reported therein. *E.g.*, _ N.W.2d _ (Iowa 20 _); _ N.W.2d _ (Iowa Ct. App. 20 _); _ S.W.2d _ (Mo. Ct. App. 20 _); _ U.S. _, _ S. Ct. _ (20 _); _ F.3d _ (_ Cir. 20 _); _ F. Supp. 2d _ (S.D. Iowa 20 _). When quoting from authorities or referring to a particular point within an authority, the specific page or pages quoted or relied upon must be given in addition to the required page references.

b. Iowa Court Rules. When citing the Iowa Court Rules, parties must use the following references:

(1) “Iowa R. Civ. P.”; “Iowa R. Crim. P.”; “Iowa R. Evid.”; “Iowa R. App. P.”; “Iowa R. Elec. P.”; “Iowa R. of Prof’l Conduct”; and “Iowa Code of Judicial Conduct” when citing those rules.

(2) “Iowa Ct. R.” when citing all other rules.

c. Unpublished opinions or decisions. An unpublished opinion or decision of a court or agency may be cited in a brief if the opinion or decision can be readily accessed electronically. Unpublished opinions or decisions shall not constitute controlling legal authority. When citing an unpublished opinion or decision a party shall include an electronic citation indicating where the opinion may be readily accessed online. *E.g.*, No. _____, _____ WL _____, at * _____ (____ 20 ____).

d. Other authorities. When citing other authorities, references must be made as follows:

(1) Citations to codes shall include the section number and date.

(2) Citations to treatises, textbooks, and encyclopedias must include the edition and the section or page as applicable.

(3) Citations to all other authorities shall include the page or pages.

e. Internal cross-references. Use of “supra” and “infra” is not permitted.

6.904(3) To legal propositions. The following propositions are deemed so well established that authorities need not be cited in support of them:

a. Findings of fact in a law action, which means generally any action triable by ordinary proceedings, are binding upon the appellate court if supported by substantial evidence.

b. In considering the propriety of a motion for directed verdict, the court views the evidence in the light most favorable to the party against whom the motion was made.

c. In ruling upon motions for new trial, the district court has a broad but not unlimited discretion in determining whether the verdict effectuates substantial justice between the parties.

d. The court is slower to interfere with the grant of a new trial than with its denial.

e. Ordinarily, the burden of proof on an issue is upon the party who would suffer loss if the issue were not established.

f. In civil cases, the burden of proof is measured by the test of preponderance of the evidence.

g. In equity cases, especially when considering the credibility of witnesses, the court gives weight to the fact findings of the district court, but is not bound by them.

h. The party who so alleges must, unless otherwise provided by statute, prove negligence and proximate cause by a preponderance of the evidence.

i. A motorist upon a public highway has a right to assume that others using the road will obey the law, including statutes, rules of the road, and necessity for due care, at least until the motorist knows or in the exercise of due care should have known otherwise.

j. Generally questions of negligence, contributory negligence, and proximate cause are for the jury; it is only in exceptional cases that they may be decided as matters of law.

k. Reformation of written instruments may be granted only upon clear, satisfactory, and convincing evidence of fraud, deceit, duress, or mutual mistake.

l. Written instruments affecting real estate may be set aside only upon evidence that is clear, satisfactory, and convincing.

m. In construing statutes, the court searches for the legislative intent as shown by what the legislature said, rather than what it should or might have said.

n. In the construction of written contracts, the cardinal principle is that the intent of the parties must control, and except in cases of ambiguity, this is determined by what the contract itself says.

o. In child custody cases, the first and governing consideration of the courts is the best interests of the child.

p. Direct and circumstantial evidence are equally probative.

q. Even when the facts are not in dispute or contradicted, if reasonable minds might draw different inferences from them a jury question is engendered.

6.904(4) To the record.

a. Proof briefs. Proof briefs must contain references to the pages of the parts of the record, e.g., Petition p. 6, Judgment p. 5, Transcript v. II p. 298, Lines 15-24.

b. Final briefs. In final briefs, the parties must replace references to parts of the record with citations to the page or pages of the appendix at which those parts appear. The final brief must also contain a reference to the original page and line numbers of the transcript. If references are made in the final briefs to parts of the record not reproduced in the appendix, the references must be to the pages of the parts of the record involved, e.g., Answer p. 7, Motion for Judgment p. 2, Tr. p. 231 LL. 8-21. Intelligible abbreviations may be used. No other changes may be made in the proof briefs as initially filed, except that typographical errors may be corrected.

6.904(5) *Hyperlinks and other electronic navigational aids.* Hyperlinks and other electronic navigational aids may be included in an electronically filed document as an aid to the court and the parties subject to the limitations of Iowa R. Elec. P. 16.312. A party may not use hyperlinks or other navigational aids to circumvent any page limitations set by these rules.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.905 Appendix.

6.905(1) *Designation of contents.*

a. The parties are encouraged to agree as to the contents of the appendix.

b. The designation of parts of the district court record to be included in the appendix must be filed by each party when the proof copy of the party's required brief, other than appellant/cross-appellee's reply brief, is filed. An appellee who is satisfied with the appellant's designation need not designate additional parts for inclusion, but must file a statement indicating the appellee is not designating additional parts of the record. If the appellee designates additional parts for inclusion in the record, the designation must indicate which documents, if any, include protected or confidential information; where in the documents the protected or confidential information can be found; the rule, statute, or court order making the information protected or confidential; and whether the information should be contained in a confidential appendix. In designating parts of the record for inclusion in the appendix, the parties must consider the fact that the entire record is available to the appellate courts for examination and may not engage in unnecessary designation.

c. The appellant shall include in the appendix the parts designated by the appellee.

6.905(2) *Duty of appellant; content.*

a. The appellant shall prepare and file an appendix.

b. The appendix shall contain:

(1) A table of contents.

(2) A list of the relevant docket entries in the district court proceeding.

(3) Relevant portions of the pleadings, transcript, exhibits, instructions, findings, conclusions, and opinion. Any pleading included in the appendix shall include the caption, signature block, and certificate of service. Summaries, abstracts, or narratives shall not be used.

(4) A file-stamped copy of the judgment, order, or decision in question.

(5) A file-stamped copy of any notices of appeal or cross-appeal, including any certificate(s) of service.

(6) The text of any agency rule that is cited in the parties' briefs.

(7) Other parts of the record to which the parties wish to direct the court's attention.

6.905(3) *Cover; form.*

a. The requirements set out in rule 6.903(1) governing the printing, typeface, spacing, page size, margins, binding, and the form and content of the front cover of briefs must also be followed in the preparation of the appendix.

b. Copies of pleadings, exhibits, and other documents may be reduced or enlarged to 8 1/2 by 11 inches for insertion in the appendix. All such copies must be legible.

c. Page numbers must be located at the bottom center of each page. The pages must be numbered, consecutively using Arabic whole numbers. the cover page must be numbered page one. Any blank pages must be numbered. Roman numerals may not be used as page numbers. If the appendix consists of multiple volumes, the volumes may not be consecutively paginated, and references to the page numbers must include both the volume number and the page number, e.g., Appendix v. II p. 256.

6.905(4) *Table of contents.*

a. The appendix must include a table of contents identifying each part of the record included and disclosing the page number at which each part begins in the appendix. If the appendix consists of multiple volumes, the table of contents in each volume must disclose the contents and page numbers of all volumes.

b. If portions of a court reporter's transcript of testimony are included in the appendix, the table of contents shall state the name of each witness whose testimony is included and the appendix page at which each witness's testimony begins.

c. If exhibits are included in the appendix, the table of contents shall identify each exhibit by the number or letter with which it was marked in the district court, give a concise description of the exhibit (e.g., "warranty deed dated . . ."; "photograph of construction site"; "Last Will and Testament executed on . . ."), and state the page number at which the exhibit appears in the appendix.

6.905(5) *Relevant docket entries.* The docket entries relevant to the appeal shall be listed on a separate page immediately following the table of contents.

6.905(6) *Verbatim; paginated; in chronological order.* Following the table of contents and the list of relevant docket entries, other parts of the record of proceedings relevant to the issues raised in the appeal shall be included verbatim on consecutively numbered pages and in the chronological order in which the proceedings occurred.

6.905(7) *Transcripts of proceedings and depositions.* If a transcript or deposition entered into evidence is not filed electronically, relevant portions must be included in the appendix. Relevant portions of an electronically filed transcript or evidentiary deposition may but need not be included. The following rules apply to all portions of transcripts and evidentiary depositions included in the appendix.

a. Any portion of a transcript or deposition included in the appendix shall be preceded by a copy of the reporter's cover sheet disclosing the date(s) of the proceedings and the names of the participants.

b. Any portion of a transcript of proceedings shall appear in the chronological order of the proceedings.

c. The name of each witness whose testimony is included in the appendix shall be inserted on the top of each appendix page where the witness's testimony appears.

d. The transcript page number shall be placed in brackets at the place in the appendix where the testimony from that transcript page begins.

e. The omission of any transcript page(s) or portion of a transcript page shall be indicated by a set of three asterisks at the location on the appendix page where the matter has been omitted.

6.905(8) *Separate volume for exhibits.* Relevant portions of exhibits included in the appendix may be indexed and contained in a separate volume or volumes. Relevant portions of the transcript of a proceeding before an administrative agency, board, commission, or officer, used in an action in the district court, may be regarded as an exhibit for the purpose of this rule.

6.905(9) *Asterisks must denote omitted portions of exhibits and other documents.* If part of an exhibit or other document is omitted from the appendix, the omission must be indicated by a set of three asterisks at the location on the appendix page where the matter has been omitted.

6.905(10) *Matters not included in the appendix.*

a. Trial briefs shall not be included in the appendix unless necessary to establish preservation of error on an issue argued on appeal. When included to establish error was preserved, relevant portions of an unfiled trial brief shall be made a part of the record pursuant to rule 6.807.

b. The fact that parts of the record are not included in the appendix shall not prevent the parties or the courts from relying on such parts.

6.905(11) *Time for filing the appendix.* The appellant must file each volume of the appendix and any amendments with the clerk of the supreme court within 21 days after service or expiration of the time for service of the appellee's proof brief.

6.905(12) *Amendments.*

a. The appendix may be amended by agreement of all the parties at any time prior to assignment of the appeal for submission to an appellate court. The written consent of all the parties shall be filed with the amendment.

b. In the absence of agreement or after assignment of the appeal for submission to an appellate court, the appendix may be amended only with leave of the appropriate appellate court. A proposed amendment may be conditionally filed with a motion for leave to amend.

6.905(13) *Cost of producing; taxation as costs on appeal.*

a. Appellant's attorney must certify within the appendix the amount actually paid for printing or otherwise producing paper copies of the appendix required by these rules.

b. The reasonable costs of printing or duplicating the appendix shall be taxed by the appellate court. Reasonable printing or duplicating costs may not exceed actual costs or \$1 per page, whichever

is lower, unless otherwise ordered by the appropriate appellate court. The costs of any printing or duplication not required by these rules may not be taxed as costs.

6.905(14) Confidential or protected information. Confidential or protected information that is not or cannot be redacted must be included in a separate volume of the appendix, and only that volume must be certified as confidential.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.906 Brief of amicus curiae.

6.906(1) Appeal. An amicus curiae brief may be filed only by leave of the appropriate appellate court granted on motion, at the request of the appropriate appellate court, or when accompanied by the written consent of all parties. The brief may be conditionally filed with a motion for leave. A motion for leave must identify the interest of the applicant and must state the reasons an amicus curiae brief would assist the court in resolving issues preserved for appellate review in the case. An amicus curiae must file a brief no later than seven days after the brief of the party to be supported is filed. The appropriate appellate court may extend the deadline for the brief only upon an affirmative showing of good cause, specifying the period within which an opposing party may respond. An amicus curiae's request to participate in oral argument will not be granted except for extraordinary reasons.

6.906(2) Further review. Amicus curiae briefs may not be filed in support of, or in resistance to, an application for further review of a decision of the court of appeals. If the supreme court grants further review, an amicus curiae brief may be filed upon leave of the supreme court granted on motion, at the request of the supreme court, or when accompanied by the written consent of all parties. A motion for leave to file an amicus curiae brief must be filed within 14 days of the supreme court's order granting further review, and no response to the motion shall be received unless requested by the court. The motion must identify the interest of the applicant, must state the reasons an amicus curiae brief would assist the court in resolving issues preserved for appellate review in the case, and must be accompanied by the amicus curiae brief. If the motion for leave to file an amicus curiae brief is granted, the parties may file a response to the amicus curiae brief within 15 days of the court's order granting the motion.

6.906(3) Rehearing. Amicus curiae briefs may not be filed in support of, or in resistance to, a petition for rehearing of an opinion of the court of appeals or the supreme court.

6.906(4) Form of amicus curiae brief. An amicus curiae brief may not exceed more than one-half of the length limitations for a required brief specified in rule 6.903(1)(f). An amicus curiae brief must comply with the format requirements of rule 6.903(1). An amicus curiae brief need not comply with rule 6.903(2) or (3) but must include all of the following:

- a. A table of contents with page references.
- b. A table of authorities containing cases (alphabetically arranged), statutes, and other authorities cited, with references to all pages of the brief where they are cited.
- c. A concise statement of the identity of the amicus curiae and its interest in the case.
- d. A statement that indicates whether a party's counsel authored the brief in whole or in part, indicates whether a party or party's counsel contributed money to fund the preparation or submission of the brief, and identifies any other person who contributed money to fund the preparation or submission of the brief.
- e. An argument.
- f. A certificate of compliance, if required by rule 6.903(1)(f)(4).

6.906(5) Criteria for allowing amicus curiae brief. An appellate court has broad discretion in determining whether an amicus curiae brief should be allowed. The court will base its decision on whether the brief will assist the court in resolving the issues preserved for appellate review in the case. In reaching its decision, the court will consider various factors, including those set forth below.

a. The court will ordinarily grant a motion for leave to file an amicus curiae brief if one of the following factors is present.

(1) The party whose position the proposed amicus brief supports is unrepresented or has not received adequate representation.

(2) The proposed amicus curiae has a direct interest in another case that may be materially affected by the outcome of the present case.

(3) The proposed amicus curiae has a unique perspective or information that will assist the court in assessing the ramifications of any decision rendered in the present case.

b. The court will ordinarily deny a motion for leave to file an amicus curiae brief if one of the following factors is present.

(1) The proposed amicus curiae brief will merely reiterate the arguments of the party whose position the brief supports.

(2) The proposed amicus curiae brief appears to be an attempt to expand the number of briefing pages available to the party whose position the brief supports.

(3) The proposed amicus curiae brief attempts to raise issues that were not preserved for appellate review.

(4) The proposed amicus curiae brief will place an undue burden on the opposing party.

c. The court may also strike an amicus curiae brief filed with the consent of all parties if it appears the brief would not be allowed under the above criteria.

[Court Order October 31, 2008, effective January 1, 2009; November 19, 2016, effective March 1, 2017]

Rule 6.907 Scope of review. Review in equity cases shall be de novo. In all other cases the appellate courts shall constitute courts for correction of errors at law, and findings of fact in jury-waived cases shall have the effect of a special verdict.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.908 Oral and nonoral submission; notice of additional authorities.

6.908(1) Requests for oral argument. A party desiring to present an oral argument shall request it in their brief as provided in rule 6.903(2)(i). Oral argument will not be granted if it is not requested in the brief, except by order of the appropriate appellate court.

6.908(2) Denial of oral argument. The appropriate appellate court will deny a request for oral argument if oral argument is unlikely to be of assistance to the court.

6.908(3) Grant of oral argument. If oral argument is granted, the court shall fix the time allotted for oral argument and notify the parties.

6.908(4) Issues raised but not argued. Issues properly raised in the briefs shall not be waived as a consequence of failing to address them during oral argument.

6.908(5) Additional authorities. After final briefs are filed, a party may file a notice of additional authorities not cited in the briefs. The notice must include a citation for each additional authority. No further argument may be included in the notice. If the case is set for oral argument, the party must ensure that all opposing parties are served with the notice at least four days in advance of oral argument, unless the authorities were not in existence prior to that time.

6.908(6) Use of exhibits and demonstrative aids during argument. If a party intends to display exhibits or any other demonstrative aids during oral argument, the party must ensure that all opposing parties are served a copy of the exhibit or aid no later than four days prior to the argument. No such exhibit or aid may be used in oral argument unless a sufficient number of copies for the court are given to the bailiff when a party checks in for oral argument, unless it is impractical to do so.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rules 6.909 to 6.1000 Reserved.

DIVISION X

WRITS, MOTIONS, AND OTHER DOCUMENTS

Rule 6.1001 Writs and process.

6.1001(1) Writs and process, supreme court. The supreme court shall issue all writs and process necessary for the exercise and enforcement of its appellate jurisdiction and in the furtherance of its supervisory and administrative control over all inferior judicial tribunals and officers. The supreme court may enforce its mandates by fine and imprisonment, and imprisonment may be continued until obeyed.

6.1001(2) Writs and process, court of appeals. The court of appeals shall issue writs and other process necessary for the exercise and enforcement of its jurisdiction, but only in cases that have been transferred to the court of appeals by the supreme court.

6.1001(3) Resistance and consideration. Any request for relief under this rule may be resisted and will be considered in the same manner provided for motions in rule 6.1002.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1002 Motions.

6.1002(1) *Motions in supreme court and court of appeals.* All motions and supporting documents must be filed with the clerk of the supreme court as provided in rule 6.701 and served as provided in rule 6.702. A motion:

a. Must prominently display beneath the title of the motion the date of any impending hearing, trial, or matter needing immediate attention of the court. If the filing requires expedited consideration, the filing party must state the circumstances in the special filing instructions to the clerk on the electronic cover sheet, *see* Iowa R. Elec. P. 16.306(1), including the date of any impending district court trial or hearing.

b. Must include any materials required by a specific provision of these rules governing such motion.

c. Must be accompanied by a copy of any ruling from which a party seeks appellate review.

d. Must state with particularity the grounds on which it is based, including citations to relevant authorities.

e. Must set forth the order or precise relief sought.

f. May be supported by other relevant portions of the record. The supporting documents to a motion must be electronically attached to the motion. *See* Iowa R. Elec. P. 16.311. Such attachments may not exceed 25 pages unless otherwise ordered by the appellate court. Any application for the inclusion of attachments exceeding the 25-page limitation may not include such attachments.

6.1002(2) *Resistance; reply to resistance.* All resistances, replies, and any supporting documents must be filed with the clerk of the supreme court as provided in rule 6.701 and served as provided in rule 6.702. Unless the appropriate appellate court orders otherwise, any party may file a resistance to a motion within 14 days after service of the motion. A reply to the resistance may be filed within three days after the service of the resistance. However, the appropriate appellate court may act upon the motion prior to the expiration of the time to file a reply to the resistance. A resistance or a reply to the resistance may be supported by other relevant portions of the record, but such attachments may not exceed 25 pages unless otherwise ordered by an appellate court. Any application for the inclusion of attachments exceeding the 25-page limitation may not include such attachments.

6.1002(3) *Additional filings; hearings.* The court may require additional filings and may set any motion for hearing.

6.1002(4) *Motions for procedural or temporary orders.* Notwithstanding the provisions of rule 6.1002(2), motions for procedural orders, including any motion under rule 6.1003(2), and motions for temporary orders in which it appears that rights would be lost or greatly impaired by delay, may be ruled upon at any time without awaiting a resistance. Any party adversely affected by such ruling may within 10 days request review of the ruling.

6.1002(5) *Authority of a single justice to entertain motions.* In addition to any authority expressly conferred by rule or by statute, a single justice or senior judge of the supreme court may entertain any motion in an appeal or original proceeding in the supreme court and grant or deny any relief which may properly be sought by motion, except that a single justice or senior judge may not dismiss, affirm, reverse, or otherwise determine an appeal or original proceeding. The action of a single justice or senior judge may be reviewed by the supreme court upon its own motion or a motion of a party. A party's motion for review of the action of a single justice or senior judge shall be filed within 10 days after the date of filing of the challenged order.

6.1002(6) *Authority of the court of appeals and its judges to entertain motions.* The court of appeals and its judges may entertain motions only in appeals that the supreme court has transferred to that court. In such appeals, a single judge of the court of appeals may entertain any motion and grant or deny any relief which may properly be sought by motion, except that a single judge may not dismiss, affirm, reverse, or otherwise determine an appeal. The action of a single judge may be reviewed by the court of appeals upon its own motion or a motion of a party. A party's motion for review of the action of a single judge shall be filed within 10 days after the date of filing of the challenged order.

6.1002(7) *Authority of the clerk to entertain motions for procedural orders.* The clerk or the deputy clerk of the supreme court is authorized, subject to the control and direction of the supreme court, to take appropriate action for the supreme court on motions for procedural orders upon which the court pursuant to rule 6.1002(4) could rule without awaiting a resistance. The clerk may grant a motion only for good cause shown and when the prejudice to the nonmoving party is not great. Good cause for an extension includes the illness of counsel, the unavailability of counsel due to unusual and

compelling circumstances, the unavailability of a necessary transcript or other portion of the record due to circumstances beyond the control of counsel, or a reasonably good possibility of settlement within the time as extended. An order of the clerk entered pursuant to this paragraph may be reviewed by the supreme court upon the motion of an adversely affected party filed within 10 days after the date of filing of the challenged order.

6.1002(8) *Authority of the clerk to set motions for consideration.* The clerk or the deputy clerk of the supreme court is authorized, subject to the control and direction of the supreme court, to set any motion pending in the supreme court for consideration and set the time allowed for resistance to the motion.

6.1002(9) *Filing deadlines not extended.* The filing of a motion will not stay a filing deadline unless otherwise provided by these rules or an order of the court.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1003 Motions to shorten or extend deadlines.

6.1003(1) *Jurisdictional deadlines.*

a. Notices of appeal. The supreme court may not extend the deadline for filing a notice of appeal except as provided in rule 6.101(5).

b. Applications for interlocutory appeal. The supreme court may not extend the deadline for filing an application for interlocutory appeal except as provided in rule 6.104(1)(b)(3).

c. Applications for discretionary review. The supreme court may not extend the deadline for filing an application for discretionary review except as provided in rule 6.106(1)(b).

d. Petitions for writ of certiorari. The supreme court may not extend the deadline for filing a petition for writ of certiorari except as provided in rule 6.107(1)(b).

e. Applications for further review. The court of appeals may not extend the deadline for filing an application for further review except as provided in Iowa Code section 602.4102(5). The supreme court may not extend the deadline for filing an application for further review.

6.1003(2) *All other deadlines.* The appropriate appellate court may upon its own motion or on motion of a litigant for good cause shorten or extend a non-jurisdictional deadline set by these rules or by an order of the court. In cases where the expedited deadlines of rule 6.902 apply, the motion shall so state. Good cause for an extension includes the illness of counsel, the unavailability of counsel due to unusual and compelling circumstances, the unavailability of a necessary transcript or other portion of the record due to circumstances beyond the control of counsel, or a reasonably good possibility of settlement within the time as extended.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1004 Limited remands. The appropriate appellate court may on its own motion or on motion of a litigant remand a pending appeal to the district court, which shall have jurisdiction to proceed as directed by the appellate court. Jurisdiction of the appeal shall otherwise remain with the remanding appellate court. A motion for limited remand shall be filed as soon as the grounds for the motion become apparent.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1005 Frivolous appeals; withdrawal of counsel.

6.1005(1) *Applicability.* The procedures in this rule apply when court-appointed counsel moves to withdraw on the grounds that the appeal is frivolous. These withdrawal procedures cannot be used in termination-of-parental-rights and child-in-need-of-assistance appeals under Iowa Code chapter 232, in direct criminal appeals following a trial, or in appeals from the denial of an application for postconviction relief following a reported evidentiary hearing on that application, unless the application was ultimately denied based upon the statute of limitations, law of the case, or res judicata principles. Although not permitted to withdraw from such appeals, counsel are not required to raise in such appeals claims of ineffective assistance of counsel that require the development of an additional record in a further postconviction relief proceeding.

6.1005(2) *Motion to withdraw.* If, after a diligent investigation of the entire record, court-appointed counsel is convinced the appeal is frivolous, and that counsel cannot, in good conscience, proceed with the appeal, counsel may file a motion to withdraw. For purposes of this section, a potential claim of ineffective assistance of counsel that requires the development of an additional record in a postconviction relief proceeding may be considered frivolous. The motion must be accompanied by:

a. A brief referring to anything in the record that might arguably support the appeal. The motion and brief must be in the form specified in rule 6.1007 and must contain citations to the record. If the appeal is from a guilty plea or sentence, the motion must, at a minimum, address whether a factual basis existed for each and every element of the crime, whether the plea and sentencing proceedings substantially complied with the rules of criminal procedure, and whether the sentence was authorized by the Iowa Code, case law, or the rules of criminal procedure. The brief must contain specific citations to the sections of the Iowa Code and the Iowa Court Rules that are applicable to the determination of whether the sentence imposed was within the statutory limits and compare those sections to the sentence imposed, along with a proper citation to the record. The brief must also contain citations to the record establishing each of the elements of the crime and establishing compliance with the rules of criminal procedure and the Iowa Code.

b. A copy of the rule 6.1005(3) notice.

c. A certificate showing service of the motion, brief, and notice upon the client.

6.1005(3) *Written notice to client.* Counsel shall notify the client in writing of counsel's conclusion that the appeal is frivolous and that counsel is filing a motion to withdraw. The notice shall be accompanied by a copy of counsel's motion and brief. The notice shall advise the client:

a. If the client agrees with counsel's decision and does not desire to proceed further with the appeal, the client shall within 30 days from service of the motion and brief clearly and expressly communicate such desire, in writing, to the supreme court.

b. If the client desires to proceed with the appeal, the client shall within 30 days communicate that fact to the supreme court, raising any issues the client wants to pursue.

c. If the client fails to file a response with the supreme court, such failure could result in the waiver of the client's claims in any subsequent postconviction action.

6.1005(4) *Request to transmit record.* At the time of filing the motion to withdraw, counsel must file a request with the clerk of the district court to transmit the record to the clerk of the supreme court.

6.1005(5) *Dismissal upon client's agreement.* When a client communicates to the court the client's agreement with counsel's decision the appeal shall be promptly dismissed.

6.1005(6) *Supreme court examination of record.* In all other cases the supreme court will, after a full examination of all the record, decide whether the appeal is wholly frivolous. If it finds the appeal is frivolous, it may grant counsel's motion to withdraw and dismiss the appeal. If however, the supreme court finds the legal points to be arguable on their merits and therefore not frivolous, it shall deny counsel's motion and may remand the matter to the district court for appointment of new counsel.

6.1005(7) *Extension of times.* The filing of a motion to withdraw pursuant to this rule shall extend the times for further proceedings on appeal until the court rules on the motion to withdraw.

[Court Order October 31, 2008, effective January 1, 2009; May 21, 2012; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017]

Rule 6.1006 Motions to dismiss, affirm, or reverse.

6.1006(1) *Motions to dismiss.*

a. *Contents and time for filing.* An appellee may file a motion to dismiss an appeal based upon the appellant's failure to comply with an appellate filing deadline established by an appellate rule or court order, the appellant's filing of a document that fails to substantially comply with the appellate rules or a court order, or an allegation that the appropriate appellate court lacks jurisdiction or authority to address the case. The motion shall state with particularity the grounds justifying dismissal and, if applicable, shall specify the prejudice to the appellee's interests. The motion shall comply with the requirements of rule 6.1002(1). A motion to dismiss should be filed within a reasonable time after the grounds supporting the motion become apparent. Except for instances in which the court allegedly lacks jurisdiction or authority over the case, the motion to dismiss should be used sparingly. A motion to dismiss will usually be granted only if the alleged infractions are repeated or significant and have resulted in prejudice to another party or the administration of justice.

b. *Ruling.* The appropriate appellate court may rule on the motion or may order the motion submitted with the appeal. An order dismissing an appeal for failure to prosecute shall direct the clerk of the supreme court to forward certified copies of the docket and the order of dismissal to the Iowa Supreme Court Attorney Disciplinary Board unless the appellant was unrepresented. If counsel was court-appointed, the clerk shall also forward certified copies of those documents to the State Public Defender.

c. Motion to reinstate an appeal. Within 10 days after issuance of the dismissal order an appellant may file a motion to reinstate an appeal dismissed under this rule. The motion must set forth the grounds for reinstatement and may be resisted. The supreme court may, in its discretion, and shall upon a showing that such dismissal was the result of oversight, mistake, or other reasonable cause reinstate the appeal.

6.1006(2) Motions to affirm. Appellee may file a motion with the appropriate appellate court to affirm the appeal on the ground that the issues raised by the appeal are frivolous. The motion shall ordinarily be served and filed within the time provided for service of the appellee's proof brief. However, if the motion is based on an allegation that the result in the case is controlled by an indistinguishable, recently published decision of an appellate court, the motion may be filed when the grounds for affirmance become apparent. The appellee shall not file a motion to affirm prior to the filing of appellant's proof brief. The motion shall comply with the requirements of rule 6.1002(1). One judge or justice may overrule, but only a quorum of the appropriate appellate court may sustain, a motion to affirm.

6.1006(3) Motions to reverse. Any party may file a motion with the appropriate appellate court to summarily reverse the appeal on the grounds the result is controlled by an indistinguishable, recently published decision of an appellate court or where error has been confessed. The motion must comply with the requirements of rule 6.1002(1). One judge or justice may overrule, but only a quorum of the appropriate appellate court may sustain, a motion to reverse.

6.1006(4) Excluding time. The time between the service of a motion to dismiss, affirm, or reverse and an order overruling the motion or ordering its submission with the appeal shall be excluded in measuring the time within which subsequent acts required by these rules must be done.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1007 Form of motions and other filings.

6.1007(1) Format. Motions and other similar filings must show clear black text or images on a white background on an 8½ by 11 inch document. If filed in paper, they may be reproduced by any process that yields a clear black image on white paper. The paper must be opaque and unglazed. Unless handwritten, the text must be double-spaced, but quotations more than 40 words long may be indented and single-spaced. Margins must be 1¼ inches on each side and 1 inch on the top and bottom. Page numbers must be located at the bottom center of each page. Typeface must conform to rule 6.903(1)(e). Paper filings must comply with Iowa R. Elec. P. 16.303.

6.1007(2) Contents. A motion or other similar filing addressed to an appellate court must contain a caption setting forth the name of the court, the title of the case, the file number, a brief descriptive title indicating the purpose of the filing, and the name, address, telephone number, e-mail address, and fax number of counsel or the self-represented party.

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rules 6.1008 to 6.1100 Reserved.

DIVISION XI

TRANSFER, SUBMISSION, AND FURTHER REVIEW

Rule 6.1101 Transfer of cases to court of appeals.

6.1101(1) Transfer. The supreme court may by order, on its own motion, transfer to the court of appeals for decision any case filed in the supreme court except a case in which provisions of the Iowa Constitution or statutes grant exclusive jurisdiction to the supreme court.

6.1101(2) Criteria for retention. The supreme court shall ordinarily retain the following types of cases:

a. Cases presenting substantial constitutional questions as to the validity of a statute, ordinance, or court or administrative rule.

b. Cases presenting substantial issues in which there appears to be a conflict between a published decision of the court of appeals or supreme court.

c. Cases presenting substantial issues of first impression.

d. Cases presenting fundamental and urgent issues of broad public importance requiring prompt or ultimate determination by the supreme court.

e. Cases involving lawyer discipline.

f. Cases presenting substantial questions of enunciating or changing legal principles.

6.1101(3) *Criteria for transfer.* The supreme court shall ordinarily transfer to the court of appeals the following types of cases:

- a. Cases presenting the application of existing legal principles.
- b. Cases presenting issues that are appropriate for summary disposition.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1102 Order of submission and transfer.

6.1102(1) *Submission.* Appeals shall be submitted to the supreme court or transferred to the court of appeals substantially in the order they are made ready for submission except when earlier submission is mandated by statute, rule, or order of the supreme court.

6.1102(2) *Early submission or transfer.* If an appeal involves questions of public importance or rights that are likely to be lost or greatly impaired by delay, the supreme court may upon the motion of a party or on the court's own motion order the submission or transfer of the case in advance of the time at which it would otherwise be submitted or transferred.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1103 Application to the supreme court for further review.

6.1103(1) *Application.*

a. *Time for filing.* An application for further review in an appeal from an Iowa Code chapter 232 child-in-need-of-assistance or termination-of-parental-rights proceeding shall be filed within 10 days following the filing of the court of appeals decision. In all other cases, an application for further review shall be filed within 20 days following the filing of the court of appeals decision.

b. *Grounds.* Further review by the supreme court is not a matter of right, but of judicial discretion. An application for further review will not be granted in normal circumstances. The following, although neither controlling nor fully measuring the supreme court's discretion, indicate the character of the reasons the court considers:

(1) The court of appeals has entered a decision in conflict with a decision of this court or the court of appeals on an important matter;

(2) The court of appeals has decided a substantial question of constitutional law or an important question of law that has not been, but should be, settled by the supreme court;

(3) The court of appeals has decided a case where there is an important question of changing legal principles;

(4) The case presents an issue of broad public importance that the supreme court should ultimately determine.

c. *Form.* An application for further review must be a single document in the form prescribed by rule 6.903(1). An application for further review must contain all of the following under appropriate headings in the following order:

(1) *Questions presented for review.* The application shall contain questions presented for review, expressed concisely in relation to the circumstances of the case, without unnecessary detail. The questions should be short and should not be argumentative or repetitive. The questions shall be set out on the first page following the cover, and no other information may appear on that page.

(2) *Table of contents.* The application shall contain a table of contents including page references.

(3) *Statement supporting further review.* The application must contain a direct and concise statement of the reasons why the case warrants further review. The statement must not be limited to a recitation of rule 6.1103(1)(b). For example, if the claim is that the court of appeals decision is in conflict with a decision of the supreme court or the court of appeals on an important matter, the party must cite to the case in conflict.

(4) *Brief.* The application shall contain a brief in support of the request for review including all contentions and legal authorities in support of the application. No authorities or argument may be incorporated into the application by reference to another document; however, citations to the appendix are permitted.

(5) *Decision of the court of appeals.* The application shall contain or be accompanied by a copy of the court of appeals decision, showing the date of its filing.

(6) *Other attachments.* The only materials that may be attached to or filed with an application, other than the court of appeals decision, are relevant materials from the district court record not exceeding ten pages, district court orders, and administrative agency rulings. The district court order must be attached if the court of appeals affirmed the decision of the district court under rule 6.1203, Iowa Ct. R. 21.26, or Iowa Code section 602.5106(1).

d. Discretion of supreme court on further review. On further review, the supreme court may review any or all of the issues raised in the original appeal or limit its review to just those issues brought to the court's attention by the application for further review.

e. Filing fee. The applicant shall pay to the clerk of the supreme court a filing fee or file a motion to waive or defer the fee as provided in rule 6.702(1)(g).

6.1103(2) Resistance.

a. When allowed; time for filing. No resistance will be received in an Iowa Code chapter 232 child-in-need-of-assistance or termination-of-parental-rights proceeding unless requested by the supreme court. In all other cases, a party may file a resistance within 10 days after service of the application.

b. Form. A resistance shall be in the form prescribed by rule 6.903(1). The resistance shall be a single document including all contentions and legal authorities in opposition to the application. No authorities or argument may be incorporated into the resistance by reference to another document; however, citations to the appendix are permitted. The only materials that may be attached to or filed with a resistance are an evidentiary exhibit not exceeding 10 pages and a district court order.

6.1103(3) Cover of application or resistance. The cover of the application or resistance must contain:

- a.* The name of the court and the appellate number of the case.
- b.* The caption of the case. See rule 6.109(2).
- c.* The date of filing of the court of appeals decision.
- d.* The title of the document.
- e.* The name, address, telephone number, e-mail address, and fax number of counsel or the self-represented party.

6.1103(4) Length of application or resistance.

a. The application or resistance may not exceed two-fifths of the length limitations for a required brief specified in rule 6.903(1)(f) exclusive of the court of appeals decision, table of contents, table of authorities, relevant materials from the district court record, district court orders, and administrative agency decisions.

b. An application for further review or resistance must include a certificate of compliance using form 10 of rule 6.1401.

6.1103(5) Supplemental briefs. If an application for further review is granted, the supreme court may require the parties to file supplemental briefs on all or some of the issues to be reviewed.

6.1103(6) Procedendo. When an application for further review is denied by order of the supreme court, the clerk of the supreme court shall immediately issue procedendo.

[Court Order October 31, 2008, effective January 1, 2009; March 5, 2013, effective May 3, 2013; November 18, 2016, effective March 1, 2017; February 23, 2017, effective March 1, 2017]

Rules 6.1104 to 6.1200 Reserved.

DIVISION XII DISPOSITION OF APPEALS

Rule 6.1201 Voluntary dismissals.

6.1201(1) Dismissal of an appeal. An appeal may be voluntarily dismissed by the party who filed the appeal at any time before a decision is filed by either the supreme court or the court of appeals.

6.1201(2) Dismissal of a cross-appeal. A cross-appeal may be voluntarily dismissed by the party who filed the cross-appeal at any time before a decision is filed by either the supreme court or court of appeals.

6.1201(3) Effect of dismissal. The clerk shall promptly issue procedendo upon the filing of a voluntary dismissal unless another party's appeal or cross-appeal remains pending under the same appellate docketing number. If only a cross-appeal remains pending following the dismissal, the cross-appeal shall continue as the primary appeal, and the cross-appellant shall assume the role of the appellant. The issuance of procedendo shall constitute a final adjudication with prejudice. A voluntary dismissal of a direct appeal from a criminal case shall not preclude the subsequent consideration of a claim for ineffective assistance of counsel in an action for postconviction relief pursuant to Iowa Code chapter 822.

[Court Order October 31, 2008, effective January 1, 2009; May 21, 2012]

Rule 6.1202 Failure to comply with appellate deadlines and appellate court orders; consequences and penalties.**6.1202(1) Notice of default.**

a. For appellant's failure to comply. When an appellant fails to comply with an appellate deadline, the clerk shall serve a notice stating that the appeal will be dismissed unless the appellant cures the default by performing the overdue action within 15 days of issuance of the notice. If the appellant fails to cure the default, the clerk shall enter an order dismissing the appeal.

b. For appellee's failure to comply. When an appellee fails to meet the deadline for filing a brief or statement waiving the appellee's brief, the clerk shall serve a notice stating that the appellee will not be allowed to participate in oral argument unless the appellee remedies the default by filing the overdue brief within 15 days of issuance of the notice.

6.1202(2) Penalty assessed to attorney. When a default notice is sent to a party's attorney for failing to comply with an appellate deadline, the attorney shall be assessed a penalty of \$150 by the clerk for each violation. Such penalties are to be paid by the attorney individually and are not to be charged to the client. If such penalties are not paid within 15 days, the attorney may be ordered to show cause why he or she should not be found in contempt of the supreme court.

6.1202(3) Notice of dismissal due to attorney's failure to comply. Following the dismissal of an appeal for failure to comply with an appellate deadline where the appellant was represented by an attorney, the clerk of the supreme court shall forward certified copies of the docket, the notice of default which resulted in dismissal, and the order of dismissal to the Iowa Supreme Court Attorney Disciplinary Board. In cases where the attorney was court-appointed, the clerk shall also forward certified copies of those documents to the State Public Defender.

6.1202(4) Dismissal on court's motion. An appeal may be dismissed, with or without notice of default, upon the motion of the appropriate appellate court.

6.1202(5) Motion to reinstate an appeal. Within 10 days after issuance of the dismissal order, an appellant may file a motion to reinstate an appeal dismissed under this rule. The motion must set forth the grounds for reinstatement and may be resisted. The supreme court may, in its discretion, and shall upon a showing that such dismissal was the result of oversight, mistake, or other reasonable cause reinstate the appeal.

6.1202(6) Failure to follow or respond to appellate court order. When a party to an appeal fails to follow or respond to an appellate court order, the court may dismiss the appeal or impose a penalty. If a monetary penalty is imposed on a party's attorney, the penalty must be paid by the attorney individually and is not to be charged to the client. If such penalties are not paid within 15 days, the attorney may be ordered to show cause why the attorney should not be found in contempt of the court. [Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1203 Affirmed or enforced without opinion. A judgment or order may be affirmed or enforced without opinion if the appellate court concludes the questions presented are not of sufficient importance to justify an opinion, an opinion would not have precedential value, and any of the following circumstances exists:

- a.* A judgment of the district court is correct.
- b.* The evidence in support of a jury verdict is sufficient.
- c.* The order of an administrative agency is supported by substantial evidence.
- d.* No error of law appears.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1204 Petition for rehearing in court of appeals.

6.1204(1) Filing does not toll further review deadline. The filing of a petition for rehearing with the court of appeals does not toll the 20-day period provided in Iowa Code section 602.4102(4) for filing an application for further review of a court of appeals decision with the supreme court. Nothing in these rules prohibits any party from filing both a petition for rehearing with the court of appeals and an application for further review with the supreme court.

6.1204(2) Time for filing. Any petition for rehearing must be filed within seven days after the filing of a court of appeals decision.

6.1204(3) Content. The petition shall state with particularity the points of law or fact which in the opinion of the petitioner the court of appeals has overlooked or misapprehended.

6.1204(4) Response. No response to a petition for rehearing will be received unless requested by the court of appeals.

6.1204(5) *Action by court of appeals.* Oral argument in support of the petition will not be permitted. If the petition for rehearing is not expressly granted or denied by the court of appeals within seven days after the petition is filed, the petition will be deemed denied. Upon request of the court of appeals within the seven-day period, the supreme court may grant an extension not to exceed seven days for the court of appeals to rule upon the petition. If the petition for rehearing is granted, the decision of the court of appeals is vacated and the court of appeals shall retain jurisdiction of the case. The court of appeals may dispose of the case with or without oral argument, order resubmission, or enter any other appropriate order. The decision after rehearing shall be subject to further review as provided in Iowa Code section 602.4102(4).

6.1204(6) *Stay of pending application of further review.* Upon motion of a party or request of the court of appeals, the supreme court may stay any pending application for further review for consecutive periods of up to 30 days during the pendency of a petition for rehearing.

6.1204(7) *Form of petition.* The petition shall be in the form prescribed by rule 6.903(1). Except by permission of the court, a petition for rehearing shall not exceed one-fifth of the length limitations for a required brief specified in rule 6.903(1)(g).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1205 Petition for rehearing in supreme court.

6.1205(1) *Time for filing.* A petition for rehearing may be filed within 14 days after the filing of a supreme court opinion unless the time is shortened or enlarged by order of that court. A party may not file a petition for rehearing from an order denying an application for further review.

6.1205(2) *Content.* The petition shall state with particularity the points of law or fact which in the opinion of the petitioner the supreme court has overlooked or misapprehended.

6.1205(3) *Response.* No response to a petition for rehearing will be received unless requested by the supreme court, but a petition for rehearing will ordinarily not be granted in the absence of such a request.

6.1205(4) *Action by supreme court.* Oral argument in support of the petition will not be permitted. If a petition for rehearing is granted, the supreme court may make a final disposition of the case with or without oral argument, order resubmission, or enter any other appropriate order. The supreme court may deny the rehearing but simultaneously amend the opinion.

6.1205(5) *Form of petition.* The petition shall be in the form prescribed by rule 6.903(1). Except by permission of the court, a petition for rehearing shall not exceed one-fifth of the length limitations for a required brief specified in rule 6.903(1)(g).

[Court Order October 31, 2008, effective January 1, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1206 Remands. When a judgment is reversed for error in overruling a motion and granting the motion would have terminated the case in favor of appellant, the appellate court may enter or direct the district court to enter final judgment as if such motion had been initially sustained. However, if it appears from the record that the material facts were not fully developed at the trial or if in the opinion or the appellate court the ends of justice will be served, a new trial shall be awarded on all or part of the case.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1207 Costs. All appellate fees and costs shall be taxed to the unsuccessful party, unless otherwise ordered by the appropriate appellate court.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1208 Procedendo.

6.1208(1) *Procedendo from supreme court action.* Unless otherwise ordered by the supreme court, no procedendo shall issue for:

a. Twenty-one days after an opinion of the supreme court is filed, nor thereafter while a petition for rehearing or an application for extension of time to file a petition for rehearing, filed according to these rules, is pending.

b. Twenty-one days after an order is filed that both denies a petition for rehearing and amends the original opinion.

c. Seventeen days after an order dismissing the appeal is filed, nor thereafter while a motion requesting that the dismissal be set aside, filed according to these rules, is pending.

6.1208(2) *Procedendo from court of appeals action.* Unless otherwise ordered by the court of appeals, no procedendo shall issue for:

a. Seventeen days after an opinion is filed in a chapter 232 termination of parental rights or CINA case, nor thereafter while an application for further review by the supreme court is pending.

b. Twenty-seven days after an opinion is filed in all other cases, nor thereafter while an application for further review by the supreme court is pending.

[Court Order October 31, 2008, effective January 1, 2009; March 9, 2009; November 18, 2016, effective March 1, 2017]

Rule 6.1209 Quarterly publication. A list indicating the disposition of all decisions rendered by the supreme court per curiam or under rule 6.1203 shall be published quarterly in the North Western Reporter, except for such of those decisions as the supreme court specially orders to be published in the regular manner.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.1210 to 6.1300 Reserved.

DIVISION XIII

AMENDMENT TO RULES

Rule 6.1301 Amendments.

6.1301(1) The amendment of rules 6.101 — 6.105, 6.601 — 6.603, and 6.907 shall be reported to the legislature.

6.1301(2) The amendment of all other appellate rules shall be by court order and shall take effect at such time as the court prescribes.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.1302 to 6.1400 Reserved.

**DIVISION XIV
FORMS**

Rule 6.1401 Forms.**Rule 6.1401 — Form 1: *Notice of Appeal.***

IN THE IOWA DISTRICT COURT
FOR _____ COUNTY

(Insert district court caption.)

No. _____ *(district court case number)*

NOTICE OF APPEAL

To: The clerk of the district court for _____ County, the clerk of the supreme court and

(insert names of unrepresented parties and attorneys of record).

Notice is given that _____ *(insert the names of the parties who are taking the appeal)* appeal(s) to the Supreme Court of Iowa from the final order entered in this case on the _____ day of _____, 20____, and from all adverse rulings and orders inhering therein.

Dated this _____ day of _____, 20____.

(signature of appellant or appellant's attorney)
Name, address, telephone number, fax number, and
e-mail address of appellant or appellant's attorney.

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this notice of appeal was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*

(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 2: Combined Certificate.**IN THE SUPREME COURT OF IOWA***(Insert supreme court caption.)*No. _____ *(supreme court case number)***COMBINED CERTIFICATE***(See Iowa R. App. P. 6.804.)*

1. Notice of appeal was filed in district court on _____ *(date)* from a judgment or ruling filed on _____ *(date)*.

2A. I hereby order a transcript or portions thereof on the _____ day of _____, 20____,¹ from:

(1) _____ *(court reporter name)* _____ *(address)*

(2) _____ *(court reporter name)* _____ *(address)*

No arrangements have been made or suggested to delay the preparation thereof.

Financial arrangements have been made with the reporter(s) in accordance with Iowa R. App. P. 6.803(5). Payment (____ will be) (____ has been) made by

____ private funds

____ court-ordered funds *(attach a copy of the order appointing appellate counsel)*

The following proceedings are ordered:¹

(1) _____ *(describe parts ordered)* before _____ *(judge)* on _____ *(date of hearing/trial)*.

(2) _____ *(describe parts ordered)* before _____ *(judge)* on _____ *(date of hearing/trial)*.

—OR—

2B. I need not order a transcript under Iowa R. App. P. 6.804(2) because:

I (____ will) (____ will not) prepare a statement of the evidence or proceedings pursuant to Iowa R. App. P. 6.806.

2C. *[To be completed by appellant if less than full transcript is ordered.]*

The issues appellant(s) intends to present on appeal are:

I.

II.

III.

¹This certificate shall be used to order the transcript. See rule 6.803(1).

FAILURE TO SPECIFY IN ADEQUATE DETAIL THOSE PROCEEDINGS TO BE TRANSCRIBED, OR FAILURE TO MAKE PROMPT SATISFACTORY ARRANGEMENTS TO PAY FOR THE TRANSCRIPT, ARE GROUNDS FOR DISMISSAL OF THE APPEAL.

3. If Iowa Rs. App. P. 6.303(2), 6.803(3), or 6.902(1) apply to this case, check category:

_____ A contest as to custody of children, an adoption, or a juvenile proceeding affecting child placement.

_____ A termination of a parent-child relationship under Iowa Code chapter 600A.

_____ A conviction and sentence on a plea of guilty or a sentence only.

_____ A certified question of law under Iowa Code chapter 684A.

_____ A lawyer disciplinary matter.

_____ Involuntary mental health commitments under Iowa Code chapter 229.

_____ Involuntary substance abuse commitments under Iowa Code chapter 125.

4. I assert in good faith that this appeal meets jurisdictional requirements and is from:

_____ A final judgment, order, or decree and a timely notice of appeal has been filed.

—OR—

_____ A ruling entered in advance of a final judgment and permission to appeal has been granted by the supreme court.

5. The names of the parties involved in this appeal and their designations in district court are shown below under column A. Their respective attorneys' names, law firms, addresses, and telephone numbers are shown below under column B:

Column A
Parties

Column B
Attorneys

Appellant(s):

Appellee(s):

(signature of appellant or appellant's attorney)
Name, address, telephone number, fax number, and
e-mail address of appellant or appellant's attorney.

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this combined certificate was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court (*list the names and addresses of the persons below and indicate the manner of service*).

(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 3: *Supplemental Certificate.***IN THE SUPREME COURT OF IOWA***(Insert supreme court caption.)*No. _____ *(supreme court case number)***SUPPLEMENTAL CERTIFICATE***(See Iowa R. App. P. 6.805.)*I hereby order a transcript or portions thereof on the _____ day of _____, 20____,² from:(1) _____
(court reporter name) _____
(address)(2) _____
(court reporter name) _____
(address)

No arrangements have been made or suggested to delay the preparation thereof.

Financial arrangements have been made with the reporter(s) in accordance with Iowa R. App. P. 6.803(5).

Payment (____ will be) (____ has been) made by

____ private funds

____ court-ordered funds *(attach a copy of the order appointing appellate counsel)*

The following proceedings are ordered:

(1) _____
(describe parts ordered) before _____ *(judge)* on _____ *(date of hearing/trial)*.(2) _____
(describe parts ordered) before _____ *(judge)* on _____ *(date of hearing/trial)*.**FAILURE TO SPECIFY IN ADEQUATE DETAIL THOSE PROCEEDINGS TO BE TRANSCRIBED, OR FAILURE TO MAKE PROMPT SATISFACTORY ARRANGEMENTS TO PAY FOR THE TRANSCRIPT, ARE GROUNDS FOR DISMISSAL OF THE APPEAL.**_____
(signature of appellant or appellant's attorney)
Name, address, telephone number, fax number, and
*e-mail address of appellant or appellant's attorney.***CERTIFICATE OF SERVICE**The undersigned certifies a copy of this supplemental certificate was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service)*._____
*(signature of person making service)*²This certificate shall be used to order the transcript. See rule 6.805(3).

Rule 6.1401 — Form 4: Notice of Appeal (Cross-Appeal) (Child-in-Need-of-Assistance and Termination Cases).**IN THE IOWA DISTRICT COURT
FOR _____ COUNTY***(Insert district court caption.)*

Juvenile No. _____

**NOTICE OF APPEAL
(CROSS-APPEAL)
(Child-in-Need-of-Assistance and
Termination Cases)**To: The clerk of the district court for _____ County, the clerk of the supreme court and

_____*(insert names of unrepresented parties and attorneys of record).*Notice is given that _____ (insert the names of the parties who are taking the appeal) appeal(s) to the Supreme Court of Iowa from *(check one of the following)* and from all adverse rulings and orders inhering therein.☐ An order in a child-in-need-of-assistance proceeding entered on the _____ day of _____, 20 ____.☐ An order terminating the parent-child relationship or dismissing a petition to terminate the parent-child relationship entered pursuant to Iowa Code section 232.117 on the _____ day of _____, 20 ____.☐ A post-termination order entered pursuant to Iowa Code section 232.117 on the _____ day of _____, 20 ____.

Dated this _____ day of _____, 20 ____.

*(signature of appellant's attorney)
Name, address, telephone number, fax number, and
e-mail address of appellant's attorney.*_____
*(Signature of appellant. *)
Name, address, and telephone number of Appellant.****The signature of the appellant is required by Iowa R. App. P. 6.102(1)(a).****CERTIFICATE OF SERVICE**The undersigned certifies a copy of this notice of appeal (cross-appeal) was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service).*_____
(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 5: *Petition on Appeal (Cross-Appeal) (Child-in-Need-of-Assistance and Termination Cases).***IN THE SUPREME COURT OF IOWA**

IN THE INTEREST OF _____, CHILD(REN)	Supreme Court No. _____ Juvenile Court No. _____ PETITION ON APPEAL (CROSS-APPEAL) (Child-In-Need-Of-Assistance and Termination Cases)
---	---

County _____ Judge _____

The names of the parties involved in this appeal and their designations in juvenile court are shown below in column A. Their respective attorneys' names, law firms, addresses, and telephone numbers are shown below in column B.

Column A
Parties

Column B
Attorneys

Appellant(s):

Appellee(s):

1. This Petition on Appeal is filed on behalf of, *(insert name of person)* _____, *(insert role of filer i.e. mother, father, child, State, intervenor, or other)* in the above-identified (CHECK ONE)

- ☐ child-in-need-of-assistance
- ☐ termination-of-parental-rights
- ☐ post-termination

proceeding, with respect to child(ren)

Child(ren)'s Name(s)Date(s) of Birth

2. (If applicable), parental rights were terminated by the juvenile court pursuant to Iowa Code section(s) 232.116(____) *(insert specific subsection(s))* as to the mother and Iowa Code section(s) 232.116(____) *(insert specific subsection(s))* as to the father.

If appealing from a **CINA** order, indicate as to the mother on what statutory ground(s) the child(ren) was/were adjudicated in need of assistance (____)(*insert specific subsection(s)*) and indicate as to the father on what statutory ground(s) the child(ren) was/were adjudicated in need of assistance (____)(*insert specific subsection(s)*).

3. Appellant's attorney, _____, is/is not the attorney who represented appellant at trial.

4. List any other pending appeals involving the child(ren).

Case Name: _____

Supreme Court No.: _____

Type of Appeal: (e.g., appeal from adjudication/disposition, dissolution) _____

5. The relevant dates regarding this appeal are the following:

a. Date of adjudication _____

b. Date of last removal (excluding any trial period at home of less than 30 days) _____

c. Date of disposition _____

d. Date(s) of any review hearings _____

e. Date of any permanency hearing _____

f. Date(s) termination petition filed/amended _____

g. Date(s) of termination hearing _____

h. Date(s) of child-in-need-of-assistance order(s) from which appeal was taken _____

i. Date of termination or dismissal order from which appeal was taken _____

j. Date of post-termination order from which appeal was taken _____

k. Date notice of appeal filed _____

l. Any other date(s)/hearing(s) material to appeal _____

6. Nature of case and relief sought: The appellant seeks a reversal of the juvenile court order:

a. terminating the parental rights of _____(*insert name(s)*) with respect to the child(ren) _____(*insert name(s)*); OR

b. dismissing a petition to terminate the parental rights of _____(*insert name(s)*) with respect to the child(ren), _____(*insert name(s)*); OR

c. If seeking reversal or modification of a **CINA** order, specify the relief requested:

d. OTHER (specify) _____

7. State the material facts as they relate to the issues presented for appeal:

8. State the legal issues presented for appeal, including a statement of how the issues arose and how they were preserved for appeal. Also, state what findings of fact or conclusions of law the district court made with which you disagree and why, generally referencing a particular part of the record, witnesses' testimony, or exhibits that support your position on appeal:

The issue statement should be concise in nature setting forth specific legal questions. General conclusions, such as "the trial court's ruling is not supported by law or the facts" are not acceptable. Include supporting legal authority for each issue raised, including authority contrary to appellant's case, if known.

- a. Issue I:

Was error preserved? ____ yes ____ no. If yes, state how:

Supporting legal authority for Issue I:

Findings of fact or conclusions of law with which you disagree:

b. Issue II:

Was error preserved? ____ yes ____ no. If yes, state how:

Supporting legal authority for Issue II:

Findings of fact or conclusions of law with which you disagree:

(Additional issues may be added)

9. I hereby certify I will request within 30 days after the filing of the notice of appeal that the clerk of the trial court transmit immediately to the clerk of the supreme court:

(For appeals from child-in-need-of-assistance proceedings)

- a. The child-in-need-of-assistance court file, including all exhibits.
- b. Any transcript of a hearing or hearings resulting in the order from which an appeal has been taken.

(For appeals from termination proceedings)

- a. The termination-of-parental-rights court file, including all exhibits.
- b. Those portions of the child-in-need-of-assistance court file, either received as exhibits or judicially noticed in the termination proceedings.
- c. The transcript of the termination hearing.

(For appeals from post-termination proceedings)

- a. The order, judgment, or decree terminating parental rights.
- b. Any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2).
- c. The post-termination order from which the appeal was taken.
- d. Any motion(s), resistance(s), or transcript(s) related to the post-termination order from which the appeal was taken.

The undersigned requests that the appellate court issue an opinion reversing the order of the juvenile court in this matter, or, in the alternative, enter an order setting this case for full briefing.

(signature of appellant or appellant's attorney)
Name, address, telephone number, fax number,
and e-mail address of appellant or appellant's
attorney.

ATTACHMENTS:

(For appeals from child-in-need-of-assistance proceedings):

- (1) a copy of the order or judgment from which the appeal has been taken;
- and

- (2) a copy of any rulings on a motion for new trial as provided in Iowa R. Civ. P. 1.1007 or a motion as provided in Iowa R. Civ. P. 1.904(2).

(For appeals from termination orders):

- (1) a copy of the petition (and any amendments) for termination of parental rights filed in the juvenile court proceedings;
- (2) any ruling on a motion for new trial under Iowa R. Civ. P. 1.1007 or a motion under Iowa R. Civ. P. 1.904(2);
- (3) a copy of the order, judgment, or decree terminating parental rights or dismissing the termination petition; and
- (4) a copy of any rulings on a motion for new trial as provided in Iowa R. Civ. P. 1.1007 or a motion as provided in Iowa R. Civ. P. 1.904(2).

(For appeals from post-termination orders):

- (1) a copy of the order, judgment, or decree terminating parental rights;
- (2) a copy of the post-termination order from which the appeal was taken; and
- (3) any motion(s) or resistance(s) related to the post-termination order from which the appeal was taken.

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this petition on appeal (cross-appeal) was served on the _____ day of _____ 20 ____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service)*.

(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009; May 27, 2010]

Rule 6.1401 — Form 6: *Response to Petition on Appeal (Cross-Appeal)*.**IN THE SUPREME COURT OF IOWA**

IN THE INTEREST OF

Supreme Court No. _____

Juvenile Court No. _____

_____, CHILD(REN)

**RESPONSE TO PETITION
ON APPEAL (CROSS-APPEAL)**

1. This response to the petition on appeal/cross-appeal is filed on behalf of _____,
(insert name of person) _____, (insert role of filer i.e. mother, father, child, State,
intervenor, or other) in the above-identified proceeding.

2. The appellee's attorney, _____, is/is not the attorney who represented appellee at trial.

3. The relevant date(s) regarding this appeal:

_____ are correctly stated in the petition on appeal.

_____ are corrected by appellee as follows: _____

4. The statement of material facts as they relate to the issues presented for appeal is:

_____ accurate as set forth by appellant and accepted by the undersigned appellee; OR

_____ requires additions/corrections, as follows:

5. Appellee's responses to the legal issues presented for appeal are as follows:

a. Issue I:

Appellee states that:

_____ error was preserved as alleged in the petition on appeal.

_____ error was not preserved. If so, please explain briefly:

Legal authorities for Issue I supporting appellee's response:

b. Issue II:

Appellee states that:

_____ error was preserved as alleged in the petition on appeal.

_____ error was not preserved. If so, please explain briefly:

Legal authorities for Issue II supporting appellee's response:

6. The undersigned requests the appellate court issue an opinion affirming the order of the juvenile court in this matter.

(signature of appellee or appellee's attorney)
Name, address, telephone number, fax number, and
e-mail address of appellee or appellee's attorney.

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this response to petition on appeal (cross-appeal) was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons below and indicate the manner of service)*.

(signature of person making service)

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 7: *Certificate of Compliance with Typeface Requirements and Type-Volume Limitation for briefs.*

Certificate of Compliance with Typeface Requirements and Type-Volume Limitation

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(*d*) and 6.903(1)(*g*)(1) or (2) because:

☐ this brief has been prepared in a proportionally spaced typeface using [state name of typeface] in [state font size] and contains [state the number of] words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(*g*)(1) or

☐ this brief has been prepared in a monospaced typeface using [state name of typeface] in [state font size] and contains [state the number of] lines of text, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(*g*)(2).

Signature

Date

[Court Order October 31, 2008, effective January 1, 2009; February 23, 2017, effective March 1, 2017; March 1, 2017]

Rule 6.1401 — Form 8: Reporter's Certificate of Filing a Transcript.**IN THE SUPREME COURT OF IOWA***(Insert supreme court caption.)*

Supreme Court No. _____

District Court No. _____

**REPORTER'S CERTIFICATE OF
FILING A TRANSCRIPT***(See Iowa R. App. P. 6.803(2)(e))*

I hereby certify that on the _____ day of _____, 20____, _____
(name of attorney or party) ordered the following transcript(s)

in the above captioned matter by serving a copy of the combined certificate. I further certify that on the _____
 day of _____, 20____, I filed the following transcript(s)

with the clerk of the supreme court.

(signature of court reporter)
Name, address, telephone number, and
e-mail address of court reporter

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this reporter's certificate was served on the _____ day of _____,
 20____, upon the following persons and upon the clerk of the supreme court *(list the names and addresses of the persons*
below and indicate the manner of service).

(signature of person making service)

**NOTE: RULE 6.803(3) REQUIRES THIS CERTIFICATE TO BE FILED AS A SEPARATE DOCUMENT AND
 TO BE SERVED ON THE PARTIES OF RECORD AND THE CLERK OF THE DISTRICT COURT.**

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 9: Reporter's Application for an Extension of Time to File a Transcript.**IN THE SUPREME COURT OF IOWA***(Insert supreme court caption.)*

Supreme Court No. _____

**REPORTER'S APPLICATION FOR AN
EXTENSION OF TIME TO FILE A TRANSCRIPT***(See Iowa R. App. P. 6.803(3)(c))*

1. I hereby certify that on the _____ day of _____, 20____,
 _____ *(name of attorney or party)* ordered the following transcript(s)

in the above captioned matter by serving a combined certificate.

2. The deadline for filing the transcript(s) with the clerk of the supreme court is the _____ day of _____, 20____.

3. I am unable to file the transcript(s) on the date required because

*(If the transcript(s) cannot be filed by the due date because the party ordering it has not
 complied with the arrangements made to pay for the transcript(s), you must state what
 arrangements for payment of the transcript(s) were made under rule 6.803(5).)*

4. I will be able to complete and file the transcript by the _____ day of _____, 20____.

WHEREFORE, the undersigned requests the court to grant the undersigned more time to file the transcript(s) in the above captioned matter.

or

WHEREFORE, the undersigned requests the court to enter an order requiring the person who ordered the transcript(s) to pay for the transcript(s) as previously arranged under rule 6.803(5) and set a date as to when the transcript(s) shall be filed.

(signature of court reporter)
Name, address, telephone number, and
e-mail address of court reporter

CERTIFICATE OF SERVICE

The undersigned certifies a copy of this reporter's application for an extension of time to file a transcript was served on the _____ day of _____, 20____, upon the following persons and upon the clerk of the supreme court
(list the names and addresses of the persons below and indicate the manner of service).

(signature of person making service)

NOTE: RULE 6.803(3) REQUIRES THAT THIS APPLICATION BE SERVED ON ALL COUNSEL OF RECORD, ANY UNREPRESENTED PARTIES, AND THE CHIEF JUDGE OF THE JUDICIAL DISTRICT.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1401 — Form 10: *Certificate of Compliance with Typeface Requirements and Type-Volume Limitation for an Application for Further Review or a Resistance to an Application for Further Review.*

Certificate of Compliance with Typeface Requirements and Type-Volume Limitation

This [application or resistance] complies with the typeface and type-volume requirements of Iowa R. App. P. 6.1103(4) because:

[] this [application or resistance] has been prepared in a proportionally spaced typeface using [state name of typeface] in [state font size], and contains [state the number of] words, excluding the parts of the [application or resistance] exempted by Iowa R. App. P. 6.1103(4)(a), or

[] this [application or resistance] has been prepared in a monospaced typeface using [state name of typeface] in [state font size], and contains [state the number of] lines of text, excluding the parts of the [application or resistance] exempted by Iowa R. App. P. 6.1103(4)(a).

Signature

Date

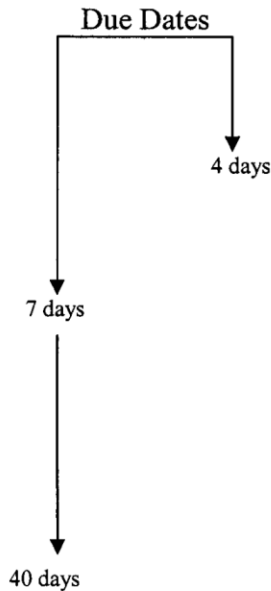
[Court Order February 23, 2017, effective March 1, 2017]

Rules 6.1402 to 6.1500 Reserved.

DIVISION XV
APPELLATE PROCEDURE TIMETABLES

Rule 6.1501 Appellate Procedure Timetables**Rule 6.1501 — Timetable 1: Pre-Briefing Procedure.****APPELLATE PROCEDURE TIMETABLE NO. 1**

(NOT FOR USE IN CHAPTER 232 CHILD-IN-NEED-OF-ASSISTANCE AND TERMINATION APPEALS)

PRE-BRIEFING PROCEDURE¹

1. **Notice of appeal.** The appellant files the notice of appeal with the district court clerk and serves a copy on all parties and the supreme court clerk. See rules 6.101, 6.102(2).
2. **Transmission of certified notice of appeal and docket entries.** Within four days after the filing of the notice of appeal the district court clerk transmits a certified copy of the notice of appeal and the docket and calendar entries to the supreme court clerk and all parties. See rule 6.802.
3. **Payment of filing fee, ordering transcript, and filing combined certificate.** Within seven days after the filing of the notice of appeal the appellant pays the filing fee to the supreme court clerk or requests a waiver of the fee. See rule 6.702. Within seven days after the filing of the notice of appeal the appellant orders the transcript from the court reporter by completing the combined certificate, and serving the certificate on the court reporter and all parties. The appellant files the combined certificate with the clerks of both the district and supreme courts. See rules 6.803, 6.804.²
4. **Filing of transcript.** Within 40 days from service of the combined certificate the court reporter files the original transcript with the supreme court clerk and serves a copy of the reporter's certificate of filing the transcript on the parties and the clerk of the district.³ See rule 6.803(3).

NOTES

¹ The Iowa Rules of Appellate Procedure govern the procedure in all appeals. These timetables are merely illustrative and may not cover every procedural situation.

² See rule 6.805 if the appellee wishes to designate additional parts of the transcript and/or if a dispute arises about which parts of the proceedings are to be transcribed.

³ The time for filing the transcript is reduced to:

20 days for criminal proceedings in which an appeal is taken from a judgment and sentence entered upon a guilty plea or from the sentence only.

30 days for appeals from Iowa Code chapter 232 child-in-need-of-assistance and termination proceedings.

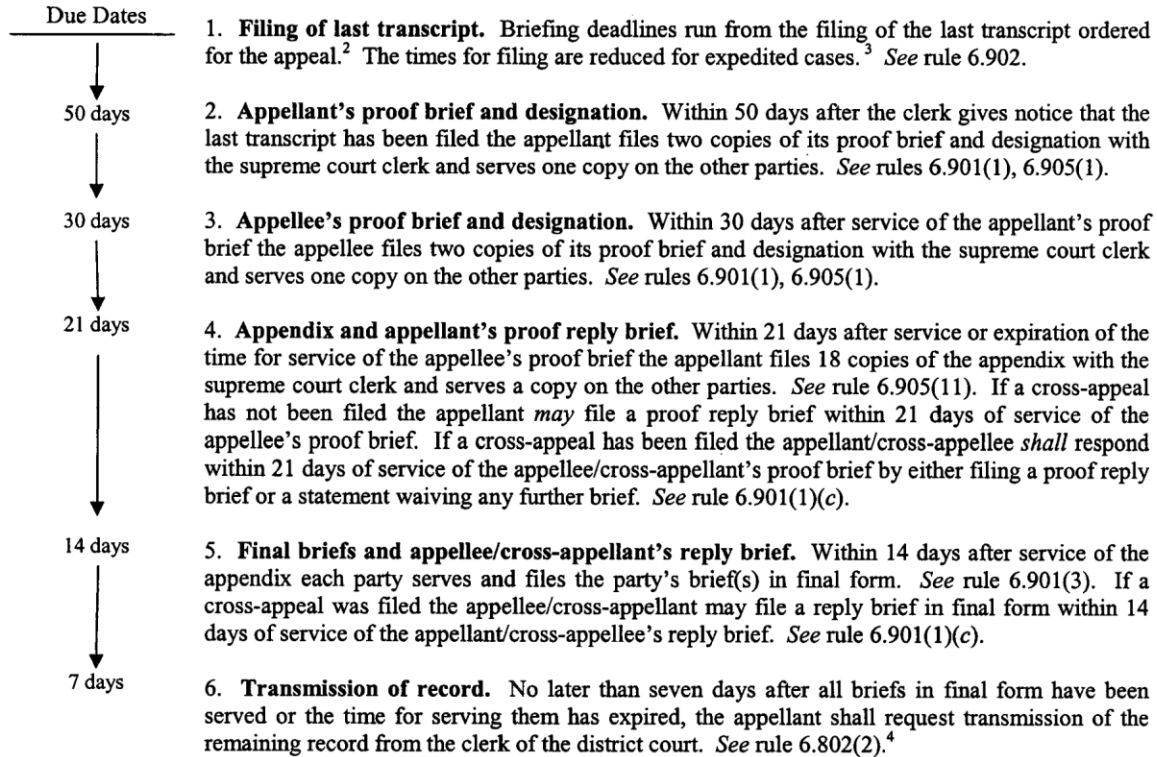
[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1501 Appellate Procedure Timetables
Rule 6.1501 — Timetable 2: Briefing Procedure.

APPELLATE PROCEDURE TIMETABLE NO. 2

(NOT FOR USE IN CHAPTER 232 CHILD-IN-NEED-OF-ASSISTANCE AND TERMINATION APPEALS)

BRIEFING PROCEDURE¹



NOTES

¹The Iowa Rules of Appellate Procedure govern the procedure in all appeals. These timetables are merely illustrative and may not cover every procedural situation.

²If no transcript was ordered the deadlines run from service of the combined certificate or after the date of filing of any approved statement of the evidence. See rule 6.901(1).

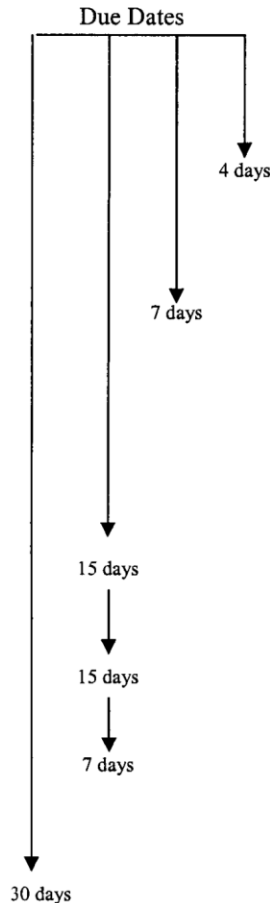
³Expedited cases include:

- Child custody.
- Adoption.
- Termination-of-parental-rights cases under Iowa Code chapter 600A.
- Child-in-need-of-assistance or termination-of-parental-rights cases under Iowa Code chapter 232.
- Criminal proceedings in which an appeal is taken from a judgment and sentence entered upon a guilty plea or from the sentence only.
- Juvenile proceedings affecting child placement.
- Lawyer disciplinary matters.
- Involuntary mental health commitments under Iowa Code chapter 229.
- Involuntary substance abuse commitments under Iowa Code chapter 125.
- Certified questions under Iowa Code chapter 684A

In expedited cases the times for filing are reduced by one-half except step 4 which is reduced to 15 days and step 6 which remains 7 days.

⁴An appellant should request the transmission of the remaining record by sending a letter to the district court clerk with a copy to the supreme court.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1501 Appellate Procedure Timetables**Rule 6.1501 — Timetable 3: Chapter 232 Child-in-Need-of-Assistance and Termination Appeals.****APPELLATE PROCEDURE TIMETABLE NO. 3¹**

1. **Notice of appeal.** A notice of appeal must be filed within 15 days of the filing of the juvenile court order. *See* rule 6.101(1). A notice of appeal cannot be filed unless signed by both the appellant and the appellant's counsel. *See* rule 6.102(1).

2. **Transmission of certified notice of appeal and docket entries.** Within four days after the filing of the notice of appeal the district court clerk transmits a certified copy of the notice of appeal and the docket and calendar entries to the supreme court clerk and all parties. *See* rule 6.802.

3. **Payment of filing fee, ordering transcript, and filing combined certificate.** Within seven days after the filing of the notice of appeal the appellant pays the filing fee to the supreme court clerk or requests a waiver of the fee. *See* rules 6.204, 6.702. Within seven days after the filing of the notice of appeal the appellant orders the transcript from the court reporter by completing the combined certificate, and serving the certificate on the court reporter and all parties. The appellant files the combined certificate with the clerks of both the district and supreme courts. *See* rules 6.803, 6.804.²

4. **Petition on appeal.** The appellant files a petition on appeal within 15 days after the filing of the notice of appeal or the appeal is dismissed. *See* rules 6.102(1)(b), 6.201.

5. **Response to petition.** A response to a petition may be filed within 15 days of service of the petition. *See* rule 6.202.

6. **Reply to issues raised in cross-appeal.** If a cross-appeal is filed the appellant/cross-appellee may file a reply to the cross-appeal issues within seven days after service of the appellee/cross-appellant's response. An appellant may not file a reply if the appellee has not filed a cross-appeal. *See* rule 6.203.

7. **Transmission of record.** Within 30 days after the filing of the notice of appeal the appellant requests that the clerk of the district court transmit the record to the clerk of the supreme court.³ *See* rule 6.204.

8. **Briefing.** Briefing is done only when directed by the appellate court. *See* rule 6.205.

NOTES

¹ The Iowa Rules of Appellate Procedure govern the procedure in all appeals. These timetables are merely illustrative and may not cover every procedural situation.

² *See* rule 6.805 if the appellee wishes to designate additional parts of the transcript and/or if a dispute arises about which parts of the proceedings are to be transcribed.

³ An appellant should request the transmission of the remaining record by sending a letter to the district court clerk with a copy to the supreme court.

[Court Order October 31, 2008, effective January 1, 2009]

Rules 6.1502 to 6.1600 Reserved.

**DIVISION XVI
TABLES**

Rule 6.1601 Tables**Rule 6.1601 — Table A: Technical Requirements of a Brief**

Document	Number of Copies to be Filed	Cover Color	Time to File Proof Copy	Time to File Final Brief	Number of Copies to be Served	Length of Handwritten Brief	Length of Brief Line Option (monospaced typeface)	Length of Brief Word Option (proportionally spaced typeface)
Appellant's Brief	2 proof briefs 18 final briefs	Blue	50 days after the clerk gives notice that the last transcript has been filed; if no transcript, 50 days after service of the combined certificate or the filing of any approved statement of the evidence	14 days after service of the appendix	1 proof brief 1 final brief	50 Pages	1300 lines	14,000 words
Appellee's Brief & Appellee/Cross-Appellant's Brief	2 proof briefs 18 final briefs	Red	30 days after service of appellant's proof brief	14 days after service of the appendix	1 proof brief 1 final brief	50 Pages	1300 lines	14,000 words
Appellant's Reply Brief	2 proof briefs 18 final briefs	Gray	21 days after service of appellee's proof brief	14 days after service of the appendix	1 proof brief 1 final brief	25 Pages	650 lines	7000 words
Appellant's Reply/Cross-Appellee's Brief	2 proof briefs 18 final briefs	Gray	21 days after service of appellee/cross-appellant's proof brief	14 days after service of the appendix	1 proof brief 1 final brief	50 pages	1300 lines	14,000 words
Appellee/Cross-Appellant's Reply Brief	18 final briefs	Gray	Not applicable	14 days after service of appellant's reply/cross-appellee's proof reply brief	1 copy	25 pages	650 lines	7000 words
Amicus Curiae Brief	18 final briefs	Green	Within the time allowed the party whose position the brief will support	14 days after service of the appendix	1 proof brief 1 final brief	25 pages	650 lines	7000 words
Appendix	18 copies	White	Not applicable	21 days after service of appellee's proof brief	1 copy	Not applicable	Not applicable	Not applicable
Petition for Rehearing in Court of Appeals*	18 copies		Not applicable	7 days after court of appeals' decision	1 copy	10 pages	260 lines	2800 words
Application for Further Review	18 copies	Yellow	Not applicable	20 days after the filing of the court of appeals' decision	1 copy	20 pages	520 lines	5600 words
Resistance to Application for Further Review	18 copies	Orange	Not applicable	10 days after service of application for further review	1 copy	20 pages	520 lines	5600 words
Petition for Rehearing in Supreme Court	18 copies		Not applicable	14 days after supreme court decision	1 copy	10 pages	260 lines	2800 words

* Filing a petition for rehearing in the court of appeals does not stay the time for filing an application for further review.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1601 — Table B: Technical Requirements of a Brief When Expedited Times for Filing Apply

Document	Number of Copies to be Filed	Cover Color	Time to File Proof Copy	Time to File Final Brief	Number of Copies to be Served	Length of Handwritten Brief	Length of Brief Line Option (monospaced typeface)	Length of Brief Word Option (proportionally spaced typeface)
Appellant's Brief	2 proof briefs 18 final briefs	Blue	25 days after the clerk gives notice that the last transcript has been filed; if no transcript, 25 days after service of the combined certificate or the filing of any approved statement of the evidence	7 days after service of the appendix	1 proof brief 1 final brief	50 pages	1300 lines	14,000 words
Appellee's Brief & Appellee/Cross-Appellant's Brief	2 proof briefs 18 final briefs	Red	15 days after service of appellant's proof brief	7 days after service of the appendix	1 proof brief 1 final brief	50 pages	1300 lines	14,000 words
Appellant's Reply Brief	2 proof briefs 18 final briefs	Gray	15 days after service of appellee's proof brief	7 days after service of the appendix	1 proof brief 1 final brief	25 pages	650 lines	7000 words
Appellant's Reply/Cross-Appellee's Brief	2 proof briefs 18 final briefs	Gray	15 days after service of appellee/cross-appellant's proof brief	7 days after service of the appendix	1 proof brief 1 final brief	50 pages	1300 lines	14,000 words
Appellee/Cross-Appellant's Reply Brief	18 final briefs	Gray	Not applicable	7 days after service of appellant's reply/cross-appellee's proof reply brief	1 copy	25 pages	650 lines	7000 words
Amicus Curiae Brief	18 final briefs	Green	Within the time allowed the party whose position the brief will support	7 days after service of the appendix	1 proof brief 1 final brief	25 pages	650 lines	7000 words
Appendix	18 copies	White	Not applicable	15 days after service of appellee's proof brief	1 copy	Not applicable	Not applicable	Not applicable
Petition for Rehearing in Court of Appeals*	18 copies		Not applicable	7 days after court of appeals' decision	1 copy	10 pages	260 lines	2800 words
Application for Further Review	18 copies	Yellow	Not applicable	20 days after the filing of the court of appeals' decision	1 copy	20 pages	520 lines	5600 words
Resistance to Application for Further Review	18 copies	Orange	Not applicable	10 days after service of application for further review	1 copy	20 pages	520 lines	5600 words
Petition for Rehearing in Supreme Court	18 copies		Not applicable	14 days after supreme court opinion	1 copy	10 pages	260 lines	2800 words

* Filing a petition for rehearing in the court of appeals does not stay the time to file an application for further review.

[Court Order October 31, 2008, effective January 1, 2009]

Rule 6.1601 — Table C: Contents of a Brief

BRIEF SECTION	APPELLANT	APPELLEE	REPLY	COUNTED IN PAGE, LINE, OR WORD LIMITATION
Table of contents	YES	YES	YES	NO
Table of authorities	YES	YES	YES	NO
Statement of the issues	YES	YES	YES	NO
Routing statement	YES	YES	NO	YES
Statement of the case	YES	Only if dissatisfied with appellant's version	NO	YES
Statement of the facts	YES	Only if dissatisfied with appellant's version	NO	YES
Error preservaton statement	YES	YES	NO	YES
Scope and standard of appellate review	YES	YES	NO	YES
Argument	YES	YES	YES	YES
A conclusion stating the precise relief sought	YES	YES	YES	YES
Request for oral or nonoral submission	YES	YES	NO	YES
Certificate of cost	YES	YES	YES	NO
Certificate of compliance	YES	YES	YES	NO
Certificate of service	YES	YES	YES	NO

[Court Order October 31, 2008, effective January 1, 2009]

CHAPTER 8

RULES OF JUVENILE PROCEDURE

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- Rule 8.2 Delinquency proceedings
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- Rule 8.20 Motions to vacate an order for termination of parental rights
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PROCEDURE FOR JUDICIAL WAIVER OF PARENTAL NOTIFICATION

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- Rule 8.25 Appointment of guardian ad litem
- Rule 8.26 Advisory notice to minor
- Rule 8.27 Scheduling
- Rule 8.28 Notice of hearing
- Rule 8.29 Burden of proof and standard of evidence
- Rule 8.30 Record required
- Rule 8.31 Order granting or denying petition
- Rule 8.32 Confidentiality of documents and hearings
- Rule 8.33 Juvenile Procedure Forms — General
 - Form 1: Petition for Family in Need of Assistance
 - Form 2: Order Setting Hearing, Appointing Counsel and Giving Notice (Family in Need of Assistance)

	Form 3:	Financial Affidavit of Parent and Application for Appointment of Counsel for ☐ Child ☐ Parent ☐ Other
	Form 3A:	Order for Appointment of Counsel for ☐ Child ☐ Parent ☐ Other
	Form 4:	Financial Affidavit of 600A Respondent and Application for Appointment of Counsel
	Form 4A:	Order for Appointment of Counsel for 600A Respondent
	Form 5:	Financial Affidavit of Petitioner Under Iowa Code Chapter 600A
	Form 5A:	Order for Payment of Respondent's Court Appointed Attorney Fees and Costs
Rule 8.34	Juvenile Procedure Forms — Judicial Waiver of Parental Notification	
	Form 1:	Petition for Waiver of Parental Notification of Minor's Abortion
	Form 2:	Declaration of Minor who has Filed Pseudonymous Petition to Waive Parental Notification
	Form 3:	Order Appointing Counsel for a Minor
	Form 4:	Order Appointing a Guardian Ad Litem for a Minor
	Form 5:	Advisory Notice to Minor
	Form 6:	Order Setting Hearing on Petition for Waiver of Parental Notification of Minor's Abortion
	Form 7:	Findings of Fact, Conclusions of Law and Order
	Form 8:	Certification that Waiver of Parental Notification is Deemed Authorized
	Form 9:	Notice of Appeal

EMANCIPATION OF MINORS

Rule 8.35	Emancipation orders
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PARENT REPRESENTATION

Rule 8.36	Educational requirements for court-appointed attorneys representing parents
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CHAPTER 8 RULES OF JUVENILE PROCEDURE

DISCOVERY AND NOTICE OF DEFENSES

Rule 8.1 Scope of discovery. In order to provide adequate information for informed decision making and to expedite trials, minimize surprise, afford opportunity for effective cross-examination and meet the requirements of due process, discovery prior to trial and other judicial hearings should be as full and free as possible consistent with protection of persons and effectuation of the goals of the juvenile justice system.

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.2 Delinquency proceedings.

8.2(1) Access to records. Upon the request of counsel for a juvenile who has been referred for intake screening on a delinquency complaint, the state shall give the juvenile's counsel access to all documents, reports and records within or which come within its possession or control that concern the juvenile or the alleged offense.

8.2(2) Informal discovery sufficient. Although informal discovery methods are preferred, upon good cause shown, depositions and interrogatories by any party may be permitted by the court in delinquency proceedings except where they conflict with these rules or with statutes. Ordinarily, however, depositions and interrogatories shall not be permitted for issues arising under Iowa Code section 232.45(6)(b) after filing of a motion to waive jurisdiction.

8.2(3) Affirmative defenses. If a juvenile alleged to have committed a delinquent act intends to rely upon the affirmative defenses of insanity, diminished responsibility, intoxication, entrapment, or self-defense [justification], the juvenile shall file written notice of the intention not later than the time set by the court for said filing and in any event not less than ten calendar days prior to the adjudicatory hearing, except for good cause shown.

8.2(4) State's right to expert examination. Where a juvenile has given notice of the use of the defense of insanity or diminished responsibility and intends to call an expert witness or witnesses on that issue at trial, the juvenile shall, within the time provided for the filing of pretrial motions, file written notice of the name of such witness. Upon such notice or as otherwise appropriate the court may upon application order the examination of the juvenile by a state-named expert or experts whose names shall be disclosed to the juvenile prior to examination.

8.2(5) Notice of alibi. If a juvenile alleged to have committed a delinquent act intends to offer an alibi defense, the juvenile shall file written notice of such intention not later than the time set by the court for the filing of pretrial motions or at such later time as the court directs. The notice of alibi defense shall state the specific place or places the juvenile claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom the juvenile intends to rely to establish such alibi. In the event that a juvenile shall file such notice the prosecuting attorney shall file written notice of the names and addresses of the witnesses the state proposes to offer in rebuttal to discredit the alibi. Such notice shall be filed within ten days after the filing of the juvenile's witness list, or within such other time as the court may direct.

8.2(6) Failure to comply. If either party fails to abide with the notice requirements of rule 8.2(3), 8.2(4), or 8.2(5), such party may not offer evidence on the issue of alibi, insanity, diminished responsibility, intoxication, entrapment, or self-defense without leave of court for good cause shown. In granting leave, the court may impose terms and conditions including a delay or continuance of trial. The right of a juvenile to give evidence of alibi, insanity, diminished responsibility, intoxication, entrapment, or self-defense in his or her own testimony is not limited by this rule.

8.2(7) Multiple offenses. Two or more delinquent acts which arise from the same transaction or occurrence or from two or more transactions or occurrences constituting parts of a common scheme or plan, when alleged and prosecuted contemporaneously, shall be alleged and prosecuted as separate counts in a single delinquency petition unless, for good cause shown, the juvenile court in its discretion determines otherwise.

8.2(8) Separate petition(s). In cases not subject to rule 8.2(7), a separate delinquency petition shall be filed for each delinquent act.

[Report February 21, 1985, effective July 1, 1985; April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002]

Rule 8.3 Child in need of assistance and termination proceedings. Although informal discovery methods are preferred, Iowa R. Civ. P. divisions V and VII, governing discovery, depositions and perpetuation of testimony, shall apply to proceedings under Iowa Code chapter 232, divisions III and IV, where not otherwise inconsistent with these rules or applicable statutes.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

MOTION PRACTICE

Rule 8.4 General rule. Any motion filed with the juvenile court shall be promptly brought to the attention of the judge or referee by the moving party.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.5 Motions for continuance in all proceedings. A motion for continuance shall not be granted except for good cause. Any order granting a continuance shall state the grounds therefor.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

PRETRIAL CONFERENCES

Rule 8.6 Pretrial conferences discretionary. In all actions the juvenile court may in its discretion order all parties to the action to appear for a pretrial conference to consider such matters as will promote a fair and expeditious trial.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

SPEEDY HEARING

Rule 8.7 General rule. It is the public policy of the state of Iowa that proceedings involving delinquency or child in need of assistance be concluded at the earliest possible time consistent with a fair hearing to all parties.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.8 Delinquency. If a child against whom a delinquency petition has been filed has not waived the right to a speedy adjudicatory hearing, the hearing must be held within 60 days after the petition is filed or the court shall order the petition dismissed unless good cause to the contrary is shown.

8.8(1) Entry of a consent decree shall be deemed a waiver of the child's right to a speedy hearing.

8.8(2) The provisions contained herein shall be applicable notwithstanding a motion or hearing to waive jurisdiction pursuant to rule 8.9 or 8.10.

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.9 Motion to waive jurisdiction. A motion under Iowa Code section 232.45 must be filed within ten days of the filing of the petition.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.10 Hearings regarding waiver. A hearing on a motion to waive jurisdiction filed pursuant to Iowa Code section 232.45 shall be held within 30 days of the filing of said motion unless good cause to the contrary is shown.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.11 Child in need of assistance adjudicatory hearings. The adjudicatory hearing on a child in need of assistance petition shall be held within 60 days of the filing of said petition unless good cause to the contrary is shown. Failure to comply with this rule shall not result in automatic dismissal, but any such failure may be urged as grounds for discretionary dismissal.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.12 Temporary removal hearings. Whenever a child has been removed pursuant to Iowa Code section 232.78 or 232.79, a hearing under Iowa Code section 232.95 shall be held within ten days of such removal.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

DELINQUENCY PROCEEDINGS

Rule 8.13 Corroboration of accomplice or solicited person. An adjudication of delinquency shall not be entered against a juvenile based upon the testimony of an accomplice or a solicited person unless corroborated by other evidence which tends to connect the juvenile with the commission of the offense; and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof. Corroboration of the testimony of victims shall not be required.

[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

Rule 8.14 Suppression of evidence. Motions to suppress evidence shall be raised by motion of the juvenile specifying the ground upon which the juvenile claims the search and seizure to be unlawful. Motions to suppress evidence shall be filed not later than the time set by the court for said filing and in any event not less than ten calendar days prior to the adjudicatory hearing, except for good cause shown.

[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

Rule 8.15 Multiple juvenile defendants. Two or more juveniles may be tried jointly if in the discretion of the court a joint trial will not result in prejudice to one or more of the parties. Otherwise, the juvenile defendants shall be tried separately. When tried jointly, the juvenile defendants shall be adjudged separately on each count.

[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

Rule 8.16 Evidence at detention, shelter care, and waiver hearings. The probable cause finding made at a shelter or detention hearing under Iowa Code section 232.44 and at waiver of jurisdiction hearings under Iowa Code section 232.45 shall be based upon substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished. The juvenile defendant may cross-examine witnesses and may introduce evidence in his or her own behalf.

[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

Rule 8.17 Venue in delinquency cases where child has been placed in another judicial district. Where a juvenile has been placed in another judicial district and is alleged to have committed a delinquent act or acts during such placement, venue, for the purpose of conducting the adjudicatory hearing, shall be in the judicial district where the delinquent act or acts are alleged to have occurred. However, the juvenile court which originally placed the juvenile shall have the option of requesting that venue be transferred to it for the purpose of conducting the adjudicatory proceedings. If the juvenile is adjudicated of committing a delinquent act or acts in the judicial district of the juvenile's placement, venue of the matter shall be transferred to the juvenile court which previously placed the child pursuant to the original dispositional order for the purpose of conducting any dispositional and subsequent review hearings.

[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

CINA AND TERMINATION PROCEEDINGS

Rule 8.18 Child abuse reports. The juvenile court shall retain founded child protective assessment reports for ten years. Notwithstanding the foregoing, when notified by the Department of Human Services that the report shall be expunged, the juvenile court shall destroy the report pursuant to Iowa Code section 235A.18. The juvenile court shall retain all other child protective assessment reports for five years from the date of intake at which time the clerk shall destroy the reports. Notwithstanding the foregoing, child protective assessment reports which are received into evidence in a juvenile proceeding shall be retained for so long as the case file is retained and shall not be destroyed pursuant to this rule.

[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002]

Rule 8.19 Admissibility of evidence at temporary removal hearings, hearings for removal of sexual offenders and physical abusers from the residence, and examination hearings. The finding of imminent risk of harm allowing for the temporary removal of a child from his or her

parent, guardian or custodian under Iowa Code section 232.95, the finding that probable cause exists to believe that a sexual or physical abuse has occurred and that the presence of the alleged sexual offender or physical abuser in the child's residence presents a danger to the child's life or physical, emotional or mental health under Iowa Code section 232.82, and the finding that probable cause exists to believe a child is a child in need of assistance pursuant to section 232.2(6)(e) or (f) for purposes of establishing grounds for examination of the child pursuant to Iowa Code section 232.98 shall be made by substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished.

[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002]

Rule 8.20 Motions to vacate an order for termination of parental rights. Any request by a biological or putative parent to vacate an order terminating parental rights pursuant to Iowa Code chapter 600A must be filed within 30 days from the entry of said order. The 30-day period for filing a motion to vacate such order shall not be waived or extended.

[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

Rule 8.21 CINA and termination of parental rights orders, informational notice regarding appeal. If a court enters an order in an Iowa Code chapter 232 CINA, termination of parental rights, or post-termination proceeding, the order shall contain a written notice that an appeal by an aggrieved party must be taken pursuant to Iowa R. App. P. 6.101(1)(a), the notice of appeal must be filed within 15 days of the entry of the order, and a petition on appeal must be filed within 15 days thereafter. The absence of such language from an order will not affect the time for filing a notice of appeal or a petition on appeal.

[Report August 31, 2001, effective January 1, 2002; November 9, 2001, effective February 15, 2002; April 21, 2003, effective July 1, 2003; October 31, 2008, effective January 1, 2009]

PROCEDURE FOR JUDICIAL WAIVER OF PARENTAL NOTIFICATION

Rule 8.22 General principles.

8.22(1) These rules shall be interpreted to provide expeditious and confidential proceedings in accordance with Iowa Code chapter 135L.

8.22(2) All references in these rules to the clerk shall mean the clerk of the district court and shall include the clerk's designee.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.23 Petition for waiver.

8.23(1) Form. A minor who seeks waiver of parental notification prior to obtaining an abortion shall petition the court in a manner substantially complying with the form that accompanies these rules. This form, along with other forms that accompany these rules for use in waiver proceedings, shall be available at the offices of all clerks of court. All petitions shall state the manner by which the minor desires to receive notification of the court's decision and whether a similar petition has previously been presented to and refused by any court.

8.23(2) Assistance. The clerk shall assist the minor in completing and filing the petition.

8.23(3) Filing. A petition is filed for the purposes of these rules when it is date and time stamped in the clerk's office. The clerk shall present the petition to the court immediately upon filing.

8.23(4) Anonymity and confidentiality. The minor may file a petition using a pseudonym and the petition shall not contain any information, such as social security number, address, or name of parents, by which the minor may be identified. A sworn statement containing the case number, and the minor's true name, date of birth, and address shall be filed simultaneously with the pseudonymous petition. The clerk of court shall issue to the minor a certified copy of the sworn statement, which shall identify her to the provider of abortion services as the minor for whom a petition to waive notification was granted or denied. The clerk shall then place the original sworn statement under seal. Notwithstanding

any other provision of Iowa law or these rules, the seal on the statement containing the minor's true name may not be broken except upon court order in exigent circumstances or at the minor's request. [Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.24 Appointment of counsel. The clerk shall inform the minor that she has a right to a court-appointed attorney without cost to her. The court shall appoint an attorney for the minor upon her request. The attorney shall serve as counsel on appeal.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.25 Appointment of guardian ad litem. The court may appoint a guardian ad litem, and shall appoint a guardian ad litem if the minor is not accompanied by a responsible adult, as that term is defined in the statute, or has not viewed the video under Iowa Code section 135L.2.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.26 Advisory notice to minor.

8.26(1) Upon the filing of any petition for waiver of parental notification, the clerk shall provide the minor a copy of the Advisory Notice to Minor form that accompanies these rules.

8.26(2) The clerk shall document in the court file that a copy of the advisory notice has been provided to the minor.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.27 Scheduling. Immediately upon filing the petition, the clerk shall set or secure the date for the hearing and so advise the minor if she is present. Otherwise, notice of hearing shall follow the procedures of rule 8.28. The hearing shall be held within 48 hours of the filing of the petition unless the minor or her attorney requests an extension of time within which a hearing shall be held. If the request for extension of time is granted, the deadline for filing any decision on appeal shall be extended for a like period of time.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.28 Notice of hearing. If the court determines that a guardian ad litem and/or an attorney for the minor should be appointed in accordance with Iowa Code section 135L.3(3)(b), the clerk shall notify said person(s) as well as any other person(s) designated by the minor not less than eight hours before the time fixed for a hearing, unless there is a waiver of the notice requirement by said person(s), or the time is reduced or extended by the court. Service of notice may be by acceptance of service. The only notice provided to the minor shall be by the minor making inquiry of the clerk of court following the entry of the order scheduling the hearing. Notice shall be provided by the clerk only to the above-named person(s).

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.29 Burden of proof and standard of evidence. The minor shall have the burden of proving the allegations of her petition by a preponderance of the evidence.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.30 Record required. In accordance with Iowa Code section 624.9, and consistent with the confidentiality requirements of rule 8.32, stenographic notes or electronic recordings shall be taken of all hearings held pursuant to Iowa Code chapter 135L and said record shall not be waived.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.31 Order granting or denying petition.

8.31(1) Time for granting or denying waiver. An order either granting or denying waiver of parental notification with findings of fact and conclusions of law shall be filed immediately following

the hearing and in no event later than 48 hours from the filing of the petition or from the hearing if an extension is granted under rule 8.27.

8.31(2) *Procedure in default of hearing and order.* If the court fails to hold the hearing and rule on the petition within the time provided by these rules, the petition is deemed granted and the waiver is deemed authorized. In the event the petition is deemed authorized, the clerk shall immediately issue the certification form that accompanies these rules to the minor or her attorney.

8.31(3) *Delivery of order or certification.* The clerk shall deliver the order under rule 8.31(1), or the certification under rule 8.31(2), in the manner requested by the minor in the petition. The order or certification shall specify the person(s) to whom the clerk shall provide a copy. A copy shall be available to the minor at the clerk's office.

8.31(4) *Notification of appeal rights.* If the petition is denied, the order shall include notice of the right to appeal to the Iowa supreme court, the time period within which appeal must be filed and a copy of the applicable rules of appellate procedure.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.32 Confidentiality of documents and hearings.

8.32(1) *Records.* In accordance with Iowa Code chapter 135L and these rules, all records of parental notification proceedings are confidential. All confidential records shall be kept sealed and opened only as necessary for the conduct of proceedings for waiver of parental notification, an appeal of the district court decision, or as ordered by a court.

8.32(2) *Hearings.* The hearing shall be held in a confidential manner, preferably in chambers. Only the minor, her attorney, her guardian ad litem, and the person(s) whose presence is specifically requested by the minor, her attorney, or her guardian ad litem may attend the hearing on the petition.

8.32(3) *Purging of files.* The clerk shall destroy all records and files in the case when one year has elapsed from any of the following, as applicable:

a. The date that the court issues an order waiving the notification requirement or the date the waiver is deemed authorized under rule 8.31(2).

b. The date after which the court denies the petition for waiver of notification and the decision is not appealed.

c. The date after which the court denies the petition for waiver of notification, the decision is appealed, and all appeals are exhausted.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.33 Juvenile Procedure Forms — General. The following forms are illustrative and not mandatory, but any particular instrument shall substantially comply with the form illustrated.

Rule 8.33 — Form 1: *Petition for Family in Need of Assistance.*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
JUVENILE COURT

IN RE THE FAMILY OF

_____;

UPON THE PETITION OF

A CHILD/CHILDREN or A PARENT,
GUARDIAN or CUSTODIAN

JUVENILE NO. _____

**PETITION FOR
FAMILY IN NEED OF ASSISTANCE**

The petitioner respectfully states to the court that _____ [child/children]
and _____ [parent, guardian or custodian] _____ are a family in need of assistance within the purview of Iowa Code sections 232.122 through 232.127, in that there has been a breakdown in the familial relationship. In support thereof, petitioner states as follows:

[STATE BRIEFLY FACTS RELIED ON TO SUSTAIN PETITION.]

Petitioner has sought services from _____, a private or public agency, to maintain and improve the familial relationship, but the relationship has not improved and petitioner now requests the aid of the court.

The name(s) and residence(s) of the child/children are _____.

The age(s) of the child/children is/are _____.

The names and residences of the living parents, guardian or custodian are _____.

The name and address of the guardian ad litem are _____.

WHEREFORE, the undersigned prays that the court set a time and place for hearing on the petition, appoint counsel for the child, order that notice be directed to all parties in interest in a manner provided by law, and upon hearing adjudicate this family to be a family in need of assistance and make such order or orders as may maintain and improve the familial relationship.

Petitioner

Address

VERIFICATION

State of Iowa }
_____ County } ss

I, _____, being duly sworn, depose and say that I have read and signed the foregoing petition and that the allegations therein made are true to the best of my information and belief.

Petitioner

Subscribed and sworn to before me this _____ day of _____, 20 ____.

Notary Public or Deputy Clerk

SOURCE: Iowa Code §232.125, 232.126, 232.127; 8.33, Form 1.

[Report 1983; November 9, 2001, effective February 15, 2002]

Rule 8.33 — Form 2: Order Setting Hearing, Appointing Counsel and Giving Notice (Family in Need of Assistance).

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
JUVENILE COURT

IN RE THE FAMILY OF

_____;

UPON THE PETITION OF

A CHILD/CHILDREN or A PARENT,
GUARDIAN or CUSTODIAN

JUVENILE NO. _____

**ORDER
SETTING HEARING, APPOINTING
COUNSEL AND GIVING NOTICE
(FAMILY IN NEED OF ASSISTANCE)**

To: _____

You are hereby notified that there is presently on file in this court a verified petition alleging the above-named family to be a family in need of assistance; a copy of the petition is attached. An adjudicatory hearing on the merits of the petition is set for the time and place stated below.

You are further notified that the court shall appoint counsel or a guardian ad litem to represent the interests of the child at the adjudicatory hearing unless the child already has such counsel or guardian and that the court shall appoint counsel for the parent, guardian, or custodian if that person desires but is financially unable to employ counsel.

You are further notified that if you wish to state your views, you must appear or in your absence the court may order you to comply with any other reasonable orders designed to maintain and improve the familial relationship.

The court having found that a hearing on this matter should be set, **IT IS HEREBY ORDERED:**

1. That the above matter is set for adjudicatory hearing at _____ o'clock _____,m., on the _____ day of _____, 20____, before this court at the _____ County Courthouse at _____, in the city of _____, _____ County, Iowa.

2. That _____, an attorney practicing before this court, is appointed to represent the child, _____, in this matter as guardian ad litem.*

3. That the clerk of the juvenile court is directed to send by certified mail a copy of this order with the attached petition to the above-named child, child's counsel and said child's parent, guardian or custodian no less than _____ days prior to the time set out above, said mailing to serve as notice of said hearing.

Dated this _____ day of _____, 20____.

Judge

* Delete this paragraph if the child is already represented by counsel.

SOURCE: Iowa Code §232.126, 232.127; 8.33, Form 2.

[Report 1983; November 9, 2001, effective February 15, 2002]

Rule 8.33 — Form 3: *Financial Affidavit of Parent and Application for Appointment of Counsel for ☐ Child ☐ Parent ☐ Other.*

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of _____)
 _____)
 _____)
 _____)
 Child(ren).)

Juvenile No. _____

Financial Affidavit of Parent and Application
for Appointment of Counsel for
☐ Child ☐ Parent ☐ Other: _____

In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____

Street/P.O. Box Apt # City State Zip

Case: ☐ CINA ☐ TPR ☐ Del ☐ Other: _____ Relationship to Child(ren): ☐ Parent ☐ Other: _____

Do you have a job? ☐ No job ☐ Yes, full time ☐ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ☐ hour ☐ month ☐ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ☐ hour ☐ month ☐ year

List all other money you, and anyone else living in your household, has coming in: _____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than \$100: _____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____

I understand I may be required to repay the state for my attorney fees and costs and those of my child, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.

Date _____

Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; November 8, 2012, effective January 7, 2013]

Rule 8.33 — Form 3A: Order for Appointment of Counsel for ☐ Child ☐ Parent ☐ Other.

In the Iowa District Court for _____ County (Juvenile Division)		
In the Interest of	)	Juvenile No. _____
_____	)	
_____	)	Order for Appointment
_____	)	of Counsel for
Child(ren).	)	☐ Child ☐ Parent ☐ Other: _____

Now on this _____ day of _____, 20____, the court having received and examined the Financial Affidavit of Parent and Application for Appointment of Counsel and having considered not only Child/Applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. Child/Applicant:

- ☐ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
 - ☐ Child/Applicant's income is **at or below 125%** of the poverty guidelines and Child/Applicant is unable to pay for the cost of an attorney; **or**
 - ☐ Child/Applicant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Child/Applicant substantial financial hardship; **or**
 - ☐ Child/Applicant's Income is **over 200%** of the poverty guidelines, case is a felony-level delinquency, and not appointing counsel would cause Child/Applicant substantial financial hardship.
- ☐ Is a child and is otherwise eligible for court-appointed counsel under Iowa Code chapter 232.
- ☐ Is not eligible for court-appointed counsel.

2. Counsel/Guardian ad litem appointed below to represent Child/Applicant is:

- ☐ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in this county; **or**
- ☐ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
 - ☐ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
 - ☐ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
 - ☐ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

It is therefore ordered that Child/Applicant's Application for Appointment of Counsel is

- ☐ Denied.
- ☐ Approved, and that _____ is appointed to serve as counsel/guardian ad litem in this case for _____ at state expense and may be contacted at _____.

Judge, _____ Judicial District

Copy to:

* Note: A different standard applies for determining eligibility for appointment of respondent's counsel in a Chapter 600A TPR, and additional findings are required to determine the appropriate party/agency responsible for payment. See Iowa Code §§ 600A.2(11), 600A.6A(2), and 600A.6B. Do not use this form order for 600A TPR Appointments.

Rule 8.33 — Form 4: *Financial Affidavit of 600A Respondent and Application for Appointment of Counsel.*

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of

_____,
 _____,
 _____,
 Child(ren).

)
)
)
)
)
)

Juvenile No. _____

Financial Affidavit of 600A Respondent and
Application for Appointment of Counsel

In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:

Respondent's name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
 _____ Street/P.O. Box _____ Apt # _____ City _____ State _____ Zip _____Do you have a job? ☐ No job ☐ Yes, full time ☐ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ☐ hour ☐ month ☐ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ☐ hour ☐ month ☐ yearList all other money you, and anyone else living in your household, has coming in: _____

 _____List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything
else worth more than \$100: _____

 _____List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____

 _____**I understand I may be required to repay the state for my attorney fees and costs and those of my child, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.**

Date _____

Signature _____

[Report November 8, 2012, effective January 7, 2013]

Rule 8.33 — Form 4A: Order for Appointment of Counsel for 600A Respondent.

In the Iowa District Court for _____ County (Juvenile Division)	
In the Interest of _____, _____, _____, Child(ren).	))))))
	Juvenile No. _____ Order for Appointment of Counsel for 600A Respondent

Now on this _____ day of _____, 20____, the court having received and examined the Financial Affidavit of Respondent and Application for Appointment of Counsel and having conducted an in-court colloquy and having considered not only Respondent's income, but also the availability of any assets subject to execution and the nature and complexity of the case, finds the following:

1. Respondent:

- ☐ Is eligible for court-appointed counsel pursuant to Iowa Code section 600A.6A because each of the following criteria are met:
- ☐ Respondent requested appointment of counsel; **and**
 - ☐ Respondent is indigent (at or below 100% of the poverty guidelines and Respondent is unable to pay for the cost of an attorney); **and**
 - ☐ Respondent, because of lack of skill or education, would have difficulty in presenting the person's version of the facts in dispute, particularly where the presentation of the facts requires the examination or cross-examination of witnesses or the presentation of complex documentary evidence; **and**
 - ☐ Respondent has a colorable defense to the termination of parental rights, or there are substantial reasons that make termination of parental rights inappropriate.
- ☐ Is not eligible for court-appointed counsel.

2. Counsel appointed below to represent Respondent:

- ☐ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
- ☐ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
- ☐ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

It is therefore ordered that Respondent's Application for Appointment of Counsel is

- ☐ Denied.
- ☐ Approved, and that _____ is appointed to serve as counsel in this case for Respondent at state expense and may be contacted at _____.

Judge, _____ Judicial District

Copy to:

[Report November 8, 2012, effective January 7, 2013]

Rule 8.33 — Form 5: Financial Affidavit of Petitioner Under Iowa Code Chapter 600A.

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of

Child(ren).

)
)
)
)
)
)
)

Juvenile No. _____

Financial Affidavit of Petitioner Under Iowa
Code Chapter 600A

Petitioner's name: _____ Birth date: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State ZipDo you have a job? ☐ No job ☐ Yes, full time ☐ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ☐ hour ☐ month ☐ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ☐ hour ☐ month ☐ year

List all other money you, and anyone else living in your household, has coming in: _____

_____List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything
else worth more than \$100: __________

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____

_____**I promise under penalty of perjury that the statements I make in this affidavit are true and that I am unable to
pay for an attorney to represent Respondent in this case. I also understand that I must report any changes in
the information submitted on this financial affidavit.**

Date _____

Signature _____

[Report November 8, 2012, effective January 7, 2013]

Rule 8.33 — Form 5A: *Order for Payment of Respondent's Court Appointed Attorney Fees and Costs.*

In the Iowa District Court for _____ County (Juvenile Division)	
In the Interest of _____, _____, _____, Child(ren).	)))))))
	Juvenile No. _____ Order for Payment of Respondent's Court Appointed Attorney Fees and Costs

Now on this ____ day of _____, 20____, the court having received and examined the Financial Affidavit of Petitioner Under Iowa Code Chapter 600A finds as follows:

- ☐ Petitioner is **not indigent** (over 100% poverty guideline) and is responsible for payment of reasonable attorney's fees to Respondent's court-appointed attorney.
- ☐ Petitioner is **indigent** (at or under 100% poverty guideline unless able to pay attorney costs) and the State Public Defender is responsible for payment of reasonable attorney's fees to Respondent's court-appointed attorney under Iowa Code section 600A.6B(3) and Iowa Administrative Code section 493-14.

Copy to:

Judge, _____ Judicial District

[Report November 8, 2012, effective January 7, 2013]

Rule 8.34 Juvenile Procedure Forms — Judicial Waiver of Parental Notification. The following forms are illustrative and not mandatory, but any particular instrument shall substantially comply with the form illustrated.

Rule 8.34 — Form 1: *Petition for Waiver of Parental Notification of Minor's Abortion.*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF

Juvenile No. _____

A Minor.

**PETITION FOR WAIVER OF
PARENTAL NOTIFICATION OF
MINOR'S ABORTION PURSUANT
TO IOWA CODE SECTION 135L.3**

I, the above-named minor, state:

1. I am under 18 years of age.
2. I am approximately _____ weeks pregnant and seek an abortion by a licensed physician, without notification of a parent.
3. (Check one)
 - _____ a. I am accompanied by a responsible adult (a responsible adult is a person who is 18 or over and who is not associated with the clinic or physician who will perform the abortion).
 - _____ b. I am not accompanied by a responsible adult.
4. (Check one)
 - _____ a. I have viewed the video prepared by the Iowa Department of Public Health that explains my options as a pregnant minor, including parenting, adoption, and abortion.
 - _____ b. I have not viewed the video.
5. (Check one)
 - _____ a. I understand that I have the right to a court-appointed attorney at no cost to me. Please appoint an attorney to represent me.
 - _____ b. I have an attorney to represent me. The attorney's name, address, and telephone number is _____.

6. I understand that this proceeding will be kept secret from my parents and the public. The only persons who may attend any hearing on the petition are myself, my attorney, my guardian ad litem (if one is appointed) and those whose presence I, my attorney, or my guardian ad litem specifically request. I request that the following person(s) be notified of and admitted to all hearings in my case:

Name(s) and address(es): _____.

7. I understand court personnel will not send any papers to my home or try to call me. I would like to be informed of the court's decision in the following way: _____.

I request the following person(s), in addition to my attorney, be contacted and given papers in my case:

Name(s) and address(es): _____.

Petition for Waiver of Parental Notification of Minor's Abortion (*cont'd*)

8. (Check one or both)

- _____ a. I am mature and capable of providing informed consent for the performance of an abortion.
- _____ b. It would not be in my best interests to notify a parent of my abortion for the following reasons:

 _____.

9. I state on oath that (check one)

- _____ a. I am presenting this request to a court for the first time.
- _____ b. I have made this request to a court before and was refused.

10. The name, business address, and business telephone number (if these are known) of the physician who will perform the abortion is _____

 _____.

THEREFORE, I request that the court grant my application to obtain an abortion without notifying a parent.

Signed on this _____ day of _____, 20 _____.

 Petitioner (You may sign a name other than your true name,
 such as Jane Doe)

NOTICE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 2: Declaration of Minor who has Filed Pseudonymous Petition to Waive Parental Notification.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF

Juvenile No. _____

_____,
A Minor.

**DECLARATION OF MINOR WHO
HAS FILED PSEUDONYMOUS PETITION
TO WAIVE PARENTAL NOTIFICATION
UNDER IOWA CODE CHAPTER 135L**

NOTICE TO THE CLERK OF COURT: A CERTIFIED COPY OF THIS DECLARATION, WITH THE FILE NUMBER NOTED ON IT, SHOULD BE GIVEN TO THE MINOR AFTER SHE SIGNS IT.

THE ORIGINAL SHOULD IMMEDIATELY BE PLACED IN A SEALED ENVELOPE, WHICH SHOULD BE FILED UNDER SEAL AND KEPT UNDER SEAL AT ALL TIMES.

1. My true name is _____, and my address is _____
(print your name)

(print your address)

2. My date of birth is _____.

3. I have filed a petition to waive parental notification, under the name _____

_____ on _____
(date)

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: _____ Signed: _____
(You must sign your true name)

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 3: *Order Appointing Counsel for a Minor.*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF

Juvenile No. _____

_____,

A Minor.

**ORDER APPOINTING COUNSEL
FOR A MINOR UNDER
IOWA CODE SECTION 135L.3(3)(b)**

THIS MATTER is before the court upon the minor's request to waive parental notification of an abortion under Iowa Code chapter 135L. The court finds that counsel should be appointed.

IT IS ORDERED that [name] _____,
[address] _____, [telephone number] _____
is appointed counsel for the minor at public expense.

The clerk shall provide a copy of this order as specified in Iowa R. Juv. P. 8.28.

Dated this _____ day of _____, 20 ____.

JUDGE

JUDICIAL DISTRICT OF IOWA

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 4: *Order Appointing a Guardian Ad Litem for a Minor.*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF

Juvenile No. _____

_____,
A Minor.

**ORDER APPOINTING A
GUARDIAN AD LITEM FOR A MINOR
UNDER IOWA CODE SECTION 135L.3(3)(b)**

THIS MATTER is before the court upon the minor's request to waive parental notification of an abortion under Iowa Code chapter 135L. The court finds that a guardian ad litem should be appointed.

IT IS ORDERED that [name] _____,
[address] _____, [telephone number] _____
be appointed as the guardian ad litem for the minor at public expense.

The clerk shall provide a copy of this order as specified in Iowa R. Juv. P. 8.28.

Dated this _____ day of _____, 20 ____.

JUDGE

JUDICIAL DISTRICT OF IOWA

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 5: *Advisory Notice to Minor.*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF

Juvenile No. _____

_____,
A Minor.

ADVISORY NOTICE TO MINOR

YOU ARE NOTIFIED as follows:

All information in your case is confidential. No papers will be sent to your home, and you will not be contacted by this court. Your name will not be on your court papers.

Your lawyer and your guardian ad litem (if one is appointed) will receive notices about your case. You may also name someone else to get notices. That person's name should be on your petition.

YOUR CASE NUMBER APPEARS AT THE TOP OF THIS SHEET. KEEP IT IN A SAFE PLACE. YOU CANNOT GET INFORMATION FROM THE CLERK WITHOUT YOUR CASE NUMBER.

YOU HAVE BEEN GIVEN A COPY OF THE STATEMENT YOU SIGNED WITH YOUR TRUE NAME. KEEP IT IN A SAFE PLACE. YOU MAY NEED TO SHOW IT TO YOUR DOCTOR TO OBTAIN AN ABORTION WITHOUT NOTIFYING A PARENT.

Clerk: Complete information below:

1. (a) Your hearing is scheduled for _____,
at the _____ County Courthouse in _____, Iowa.

OR

- (b) You must call the clerk at (____) _____ to obtain the date of the hearing.

2. (a) Your lawyer is _____, telephone number _____.

OR

- (b) You must call the clerk at the above number to get the name of your lawyer.

3. (a) Your guardian ad litem is _____,
telephone number _____.

OR

- (b) You may call the clerk at the above number to obtain the name of your guardian ad litem.

You may be told of the court's decision immediately after the hearing. If not, you may contact your lawyer or the clerk soon after the hearing to find out if the court has ruled on your petition.

You have a right to a hearing and a decision within 48 hours unless you or your attorney asks for an extension of time. Any extension of time granted for the hearing shall extend the deadline for filing any decision on appeal for a like period of time. If these deadlines are not met you have a right to ask the clerk for a paper that will allow your doctor to perform the abortion without notifying a parent.

If the court does not grant your petition, you will be able to appeal.

Advisory Notice to Minor (*cont'd*)

If the court does not grant your petition and you decide not to appeal, or if your appeal is not granted, you may request that the court appoint a licensed therapist to help you tell your family of your decision and deal with any family problems. The cost of the therapist will be paid for by the court.

I certify that I have given a copy of this advisory notice to the minor.

Clerk of the Court

_____, Iowa _____
County Courthouse

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 6: Order Setting Hearing on Petition for Waiver of Parental Notification of Minor's Abortion.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF

Juvenile No. _____

_____,
A Minor.

**ORDER SETTING HEARING ON
PETITION FOR WAIVER OF
PARENTAL NOTIFICATION OF
MINOR'S ABORTION**

THIS MATTER came before the court upon the petition of _____ that a hearing be held in this matter. The court finds that such a hearing should be scheduled and proper notice should be given in accordance with Iowa R. Juv. P. 8.28.

IT IS THEREFORE ORDERED that a hearing on the Petition to Waive Parental Notification of a Minor's Abortion be held pursuant to Iowa Code section 135L.3 on the _____ day of _____, 20____, at _____ o'clock _____ m. at the _____ County Courthouse in _____, Iowa.

The clerk shall provide a copy of this order as specified in Iowa R. Juv. P. 8.28.

Dated this _____ day of _____, 20____.

JUDGE

JUDICIAL DISTRICT OF IOWA

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 7: Findings of Fact, Conclusions of Law and Order.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF

Juvenile No. _____

_____,
A Minor.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

This matter came before the court on _____, 20____, for hearing held pursuant to Iowa Code section 135L.3 on waiver of parental notification of a minor's abortion. Present for the hearing were the following:

_____, the minor;
_____, the minor's attorney;
_____, the minor's guardian ad litem; and
_____, _____.

The proceeding was reported [tape recorded]. The following exhibits and testimony were received into evidence:

The court now makes the following **FINDINGS OF FACT**:

1. Notice of this hearing and a copy of the petition were served in accordance with Iowa R. Juv. P. 8.28.
2. The petitioner is a pregnant minor, _____ years of age. She is approximately _____ weeks pregnant and seeks an abortion but objects to the notification of a parent.
3. (Check one)

____ a. The petitioner is mature and capable of providing informed consent for the performance of an abortion. This decision is based upon the following facts: _____

_____.

OR

____ b. The petitioner is not mature or does not claim to be mature, but notification to the petitioner's parent is not in the petitioner's best interest. This decision is based upon the following facts: _____

_____.

OR

____ c. The petitioner has not shown she is mature and capable of providing informed consent, nor has she shown that notification to a parent is not in her best interest. This decision is based upon the following facts: _____

_____.

Findings of Fact, Conclusions of Law and Order (*cont'd*)

CONCLUSIONS OF LAW

1. The court has jurisdiction of the petitioner and the subject matter as provided in Iowa Code chapter 135L.
2. The burden of proof is on the petitioner by a preponderance of the evidence.
3. (Check one)
 - ☐ a. A preponderance of the evidence shows that the petitioner is mature and capable of providing informed consent for the performance of the abortion within the scope and meaning of Iowa Code section 135L.3(3)(e)(1).

OR

- ☐ b. A preponderance of the evidence shows that the petitioner is not mature or does not claim to be mature, but notification of the abortion to a parent is not in the best interest of the petitioner within the scope and meaning of Iowa Code section 135L.3(3)(e)(2).

OR

- ☐ c. The evidence does not support a judicial waiver of parental notification.
4. The notification requirements as provided in Iowa Code section 135L.3 should [should not] be waived.

IT IS ORDERED, ADJUDGED AND DECREED that the petition for waiver of parental notification is granted [denied].

The clerk shall provide a copy of this order to the petitioner's attorney, guardian ad litem, if any, physician, and the following person(s) designated by the petitioner: _____

_____.

The clerk shall provide notice of this decision to the petitioner as requested in the following manner: _____

Notice: (Delete if petition is granted). You have the right to appeal this ruling to the Iowa Supreme Court. You must file a notice of appeal with the district court clerk within 24 hours of this ruling. The rules you must follow for the appeal are attached to this order.

Dated this _____ day of _____, 20 ____.

JUDGE
JUDICIAL DISTRICT OF IOWA

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 8: *Certification that Waiver of Parental Notification is Deemed Authorized.*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF

Juvenile No. _____

_____,
A Minor.

**CERTIFICATION THAT WAIVER OF
PARENTAL NOTIFICATION IS
DEEMED AUTHORIZED**

Pursuant to Iowa Code section 135L.3 the clerk certifies that:

1. The minor's petition for waiver of parental notification was filed on _____.

2. ____ (a) A ruling was not made within 48 hours of the filing of said petition,

OR

____ (b) The date for the hearing was extended at the request of the minor to _____,
and a ruling was not made within 48 hours of the extended hearing date.

THEREFORE, pursuant to Iowa Code section 135L.3(3)(1), the petition is deemed granted and the waiver of notification requirements is deemed authorized.

Dated: _____

Clerk of the Court

County Courthouse

_____, Iowa _____

Copies to: (Clerk, *see* Iowa R. Juv. P. 8.31(3))

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 9: *Notice of Appeal.*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF

Juvenile No. _____
Supreme Court No. _____

_____,

A Minor.

NOTICE OF APPEAL

**TO THE CLERK OF THE DISTRICT COURT, _____
COUNTY, AND TO THE CLERK OF THE SUPREME COURT:**

You are notified that _____, the minor, who filed her petition for
waiver of parental notification on _____, hereby appeals the order dated
_____, which denied her petition.

Dated this _____ day of _____, 20 ____.

Attorney for _____

Address: _____

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

EMANCIPATION OF MINORS

Rule 8.35 Emancipation orders.

8.35(1) *Separate orders.* The juvenile court shall enter findings of fact and conclusions of law separately from an order granting emancipation of a minor.

8.35(2) *Confidentiality.* The separate findings of fact and conclusions of law shall be confidential. Notwithstanding any other confidentiality statute or rule concerning juvenile court records, orders granting emancipation of a minor under Iowa Code chapter 232C shall be considered public records subject to release by the juvenile court.

[Report June 29, 2009, effective August 28, 2009]

PARENT REPRESENTATION

Rule 8.36 Educational requirements for court-appointed attorneys representing parents.

8.36(1) *Three-hour annual minimum.* Court-appointed attorneys representing parents in juvenile court are required to participate annually in a minimum of three hours of continuing legal education relating to juvenile court proceedings. An attorney shall not accept juvenile court appointment representing a parent unless the attorney has fulfilled this three-hour minimum requirement either in the previous calendar year or earlier in the calendar year of the appointment.

8.36(2) *Qualifying courses.*

a. For purposes of this rule, “continuing legal education relating to juvenile court proceedings” means instruction that meets all three of the following criteria:

(1) It relates to the legal, ethical, medical, psychological, or social issues arising in juvenile court proceedings.

(2) It has been approved by the Iowa Children’s Justice Initiative.

(3) It has been accredited by the commission on continuing legal education.

b. The Iowa Children’s Justice Initiative is responsible for publicizing courses that meet the criteria of rule 8.36(2). It is anticipated that these courses will be available throughout the state at little or no cost to the attorney.

8.36(3) *Recordkeeping.* Court-appointed attorneys representing parents in juvenile court proceedings are responsible for maintaining records of their compliance with this rule and reporting required instruction on the annual report required by Iowa Court Rule 41.4. A judge presiding over a juvenile proceeding, or the State Public Defender, may require an attorney to certify compliance with this rule and to provide the attorney’s annual reports and any other records demonstrating compliance with this rule.

8.36(4) *Effective date.* This rule applies to court appointments that occur on or after January 1, 2015. Attorneys appointed to represent parents in juvenile court proceedings on or after January 1, 2015, must have completed three hours of continuing legal education relating to juvenile court proceedings either during calendar year 2014 or during calendar year 2015 prior to their appointment. [Court Order October 16, 2013, effective January 1, 2015]

CHAPTER 16

IOWA RULES OF ELECTRONIC PROCEDURE

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CHAPTER 16

IOWA RULES OF ELECTRONIC PROCEDURE

DIVISION I

SCOPE AND AUTHORITY

Rule 16.101 Scope and applicability.

16.101(1) The rules in this chapter govern the filing of all documents in the Iowa Judicial Branch electronic document management system (EDMS) in cases commenced on or after the initiation of electronic filing in an Iowa county or in the Iowa appellate courts. The rules of this chapter also govern the electronic filing of documents in cases converted to electronic cases.

16.101(2) Chapter 16 comments serve solely as explanation of the Iowa Rules of Electronic Procedure and are not a part of the rules.

16.101(3) The Iowa Rules of Electronic Procedure will be cited as “Iowa R. Elec. P.”
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.101. EDMS is designed to provide more efficient and less costly access to the Iowa court system for parties, attorneys, and other users by enabling access to their cases 24 hours per day, 7 days per week from anywhere with Internet access. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.102 Cases pending prior to electronic filing.

16.102(1) A case pending prior to the initiation of electronic filing in a particular county is not subject to the requirements of this chapter. A party, however, may apply to convert a case not subject to the requirements of this chapter to an electronic case.

16.102(2) If the court approves an application to convert a case to electronic filing, the rules of this chapter govern the electronically converted portion of the case. The court will determine how the case will be converted to an electronic file and which party, if any, should bear the costs of such conversion.

16.102(3) For efficiency in court operations, the chief judge of the judicial district may order the electronic conversion of any case not already subject to the requirements of this chapter.

16.102(4) Any electronically converted document is subject to the redaction requirements related to protected information in division VI of this chapter. Documents filed prior to the conversion order may be scanned for the convenience of the court, but the electronic documents will be set at a security level available only to the court. The original paper portion of any converted file is not subject to the Iowa Rules of Electronic Procedure unless the court orders otherwise.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.103 Relationship to other court rules. To the extent these rules are inconsistent with any other Iowa court rule, the rules in this chapter govern electronically filed cases and cases converted to electronic filing.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.104 Authority. These rules are adopted under the authority granted to the Iowa Supreme Court by article V, section 4, of the Iowa Constitution and by Iowa Code section 602.1614 (judicial branch acceptance, distribution, and retention of electronic records).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.105 to 16.200 Reserved.

DIVISION II

DEFINITIONS

Rule 16.201 Definitions. The following terms, as used in this chapter, are defined as follows:

16.201(1) Confidential. “Confidential” means court files, documents, or information excluded from public access by federal or state law or administrative rule, court rule, court order, or case law.

16.201(2) *Court-generated document.* “Court-generated document” means a document that is created and signed by court personnel, including judges, magistrates, court administrators, clerks of court and any designees of each.

16.201(3) *Court record.* “Court record” means for all cases the electronic files maintained in EDMS, filings the clerk of court maintains in paper form when permitted by these rules, and exhibits and other materials filed with or delivered to the court that the clerk maintains.

16.201(4) *Document.* “Document” means an instrument on which is recorded, by means of letters, figures, or marks, the original, official, or legal form of something, which may be used in evidence. A document is any physical embodiment of information or ideas, which may be in electronic or paper form.

16.201(5) *EDMS.* “EDMS” means the electronic document management system, the Iowa Judicial Branch electronic filing and case management system.

16.201(6) *Electronic.* “Electronic” means technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

16.201(7) *Electronic cover sheet.* “Electronic cover sheet” means the information that registered filers type into EDMS when they create a new case or electronically file or present documents to the court. The cover sheet enables EDMS to correctly route the filing.

16.201(8) *Electronic filing.* “Electronic filing” means the EDMS receipt of a document submitted to EDMS for filing. The posting of “received,” “awaiting approval,” or “filed” status in the filer’s EDMS account serves as confirmation that EDMS has received the filer’s submission.

16.201(9) *Electronic presentation.* “Electronic presentation” means the process by which a party or filer may electronically deliver a document to the court for review or other court action. A document is not filed when electronically presented to the court through EDMS.

COMMENT:

“**Electronic presentation.**” Formerly, parties and attorneys could physically hand a judge an unfiled document or draft order for consideration. With the implementation of EDMS, this process must now be done electronically. Electronic presentation is initiated through the selection of the “Document Type” on the electronic cover sheet. Most document types that are electronically presented are “Proposed Document” types (proposed orders, proposed dissolution decrees, or documents proposed for restricted access, for example). Other document types, however, such as trial informations and accompanying minutes of testimony, are also presented electronically to the court. A document that is electronically presented is available for the court to view, and is not a part of the court file unless the court or a party or attorney later files the document. The electronic presentation of a document has no impact on whether a party or attorney should or must be present when the court reviews the document. In addition, electronic presentation does not modify the ethical obligations or requirements of the parties, attorneys, and court regarding ex parte communications. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.201(10) *Electronic record.* “Electronic record” means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

16.201(11) *Electronic service.* “Electronic service” means the EDMS electronic posting of a notice of electronic filing or presentation into the registered parties’ or attorneys’ EDMS accounts, along with a link to the document presented or filed. Although a courtesy copy of the notice of electronic filing or service may be sent by email, service is considered complete when the notice is electronically posted to the user’s EDMS account. The registered party may view and download the presented or filed document. *See* rule 16.315(1)(f) (electronic service of documents).

16.201(12) *File stamp.* “File stamp” means in the district court the date, time, and county information that is affixed at the top of the first page of a document when it is filed in EDMS. “File stamp” means in the appellate courts the date of filing with the clerk of the supreme court affixed along the left margin of a document’s first page when it is filed in EDMS.

16.201(13) *Filing agent.* “Filing agent” means an officer, employee, or nonattorney representative of an entity, such as a partnership, association, corporation, or tribe, who is authorized by Iowa law to appear on behalf of that entity because of the nature of the proceeding. *See* rule 16.201(34) (definition of “self-represented”).

16.201(14) *Governmental agency.* “Governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government, the state, or a county, municipality, or other political subdivision of the state, including a court-approved nonprofit designee of such governmental agency.

16.201(15) *Hyperlink.* “Hyperlink” means an electronic connection or reference to another place in the document or other cited authority which, when selected, shows the portion of the document or the cited authority to which the hyperlink refers.

16.201(16) *In camera.* “In camera” means in the judge’s chambers, or in private, out of public view.

16.201(17) Information. “Information” means documents, text, images, sounds, codes, computer programs, software, databases, or the like.

16.201(18) Judicial branch. “Judicial branch” means the Iowa Judicial Branch of government and all courts, judicial officers, clerks of court, and offices of the courts of the State of Iowa.

16.201(19) Jurisdictional deadline. “Jurisdictional deadline” means a deadline set by rule or statute that the court may not extend or change.

16.201(20) Nonelectronic filing. “Nonelectronic filing” means a process by which a paper document or other nonelectronic item is filed with the court and retained in nonelectronic form. *See* rule 16.313 (nonelectronic filings). “Nonelectronic filing” means, for parties with an exception from the electronic filing registration requirement, submitting a paper document to the clerk for scanning and electronic filing. *See* rule 16.303 (submission of paper documents).

16.201(21) Nonregistered filer. “Nonregistered filer” means a party who has received an exception from the Iowa Judicial Branch electronic registration requirement and is authorized to submit nonelectronic documents in a case. *See* rule 16.302(2) (exceptions from electronic filing requirements).

16.201(22) Notice of case association. “Notice of case association” means an electronic submission by a party or filing agent to obtain access to the case and receive notifications of filings after the party or filing agent has registered in EDMS.

16.201(23) Notice of electronic filing or presentation. “Notice of electronic filing or presentation” means the notice EDMS generates when a document is electronically filed or electronically presented to the court. The notice of electronic filing or presentation indicates the official file-stamp date and time of the electronic filing of the document in local time for the State of Iowa. *See* rule 16.307 (electronic file stamp). When a document or proposed document is electronically filed or presented to the court, EDMS will post a notice of electronic filing or presentation to the EDMS account of all parties who are registered filers in the case. Such parties may view and download the document or proposed document by logging in to their accounts.

COMMENT:

“Notice of electronic filing or presentation.” EDMS sends a courtesy notice of electronic filing or presentation by email to the filer and to any other registered party who has entered an appearance or answer in the case, filed a notice of case association, or filed an appearance as a court-approved intervenor. However, parties are cautioned that such emails are provided only as a *courtesy* service and should not be relied upon as a party’s source for obtaining notifications. A courtesy email message is not an official notification of the filing of a document and is not official service of any document listed in the message. Due to the unique features and settings of individual email accounts, EDMS cannot ensure that emailed notices of electronic filing or presentation will actually be received by a party or that such notices will be received in a timely manner. Parties receive *official* notifications through their EDMS accounts and they should rely solely upon those accounts to obtain notices of electronic filing or presentation. EDMS sends additional courtesy email messages to the filer when the status of a filing is updated to “received,” “approved,” “filed” (for presented documents only), or “returned not filed.” The official update to the status of a filing is posted to the filer’s EDMS account under My Filings. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.201(24) Party. “Party” means a person or entity by or against whom a case or part of a case is brought, including a plaintiff, petitioner, defendant, third-party defendant, or respondent. “Party” also includes a court-approved intervenor, or any other person or entity defined as a party to a case by a statute, rule, or court order. When a party appears, the clerk of court will index that party to the case, providing case access and receipt of notifications. When one or more attorneys have entered an appearance on a party’s behalf, references in these rules to service upon or filings by a party mean service upon or filings by that attorney or those attorneys. When a rule or statute requires a criminal defendant to be served with a document, service on the defendant must be made personally or electronically.

16.201(25) Proposed document. “Proposed document” means a document electronically presented to the court for review or other court action. A proposed document, other than a proposed exhibit, is not filed until the court takes action on it. *See* rule 16.412(2) (electronic submission of proposed exhibits).

16.201(26) Protected information. “Protected information” means the types of information referenced in rule 16.602.

16.201(27) Public. “Public” refers to court files, documents, or information that is not confidential or protected.

16.201(28) Public access terminal. “Public access terminal” means a computer located in a courthouse through which the public may view, print, and electronically file documents.

16.201(29) Redact. “Redact” means to delete, white out, black out, or otherwise hide text or images on a copy of an original document. The original document becomes confidential and the redacted version becomes the public version of the document.

16.201(30) Registered filer. “Registered filer” means a person or entity that has registered with EDMS and uses a login and password to file documents electronically in the Iowa court system. In cases in which the registered filer is a party and has entered an appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor, the registered filer will electronically serve and receive notice of most filed or presented documents. A registered filer, other than a registered specialized nonparty filer, can also electronically view and download files. *See* rules 16.305 (registration, logins, and passwords) and 16.315 (service of documents subsequent to original notice). *But see* rule 16.314(3) (service of original notices).

16.201(31) Remote access. “Remote access” means the ability to electronically search, view, copy, or download electronic court documents without visiting a courthouse. Remote access to documents is available to registered filers and specialized nonparty users. The status of the registered filer or specialized nonparty user determines the filer’s or user’s level of remote access to restricted access documents. *See* rule 16.502 (access to electronic court files).

16.201(32) Restricted access. “Restricted access” means a case, docket entry, or document, including physical or digital exhibits, which the court has placed at a nonpublic security level or that EDMS has automatically placed at a nonpublic security level based on federal or state law or by court rule or administrative rule. *See* rule 16.405 (restricting access to filings).

16.201(33) Scanned document. “Scanned document” means an electronic version of a paper document created by scanning the document.

16.201(34) Self-represented. “Self-represented” means persons or parties who represent themselves without the assistance of an attorney. An entity such as a partnership, association, corporation, or tribe may be self-represented when it is otherwise authorized by law to be represented by an officer, employee, or nonattorney representative. *See, e.g.,* Iowa Code § 631.14(1); *In re N.N.E.*, 752 N.W.2d 1, 12-13 (Iowa 2008). Except where this chapter specifically indicates otherwise, “attorney” includes self-represented litigants. *See* rule 16.201(13) (definition of “filing agent”).

16.201(35) Signature. “Signature” means, for the purpose of electronically filing a document in EDMS, one of three formats.

a. For a registered filer electronically filing a document, “signature” means the registered filer’s login and password, accompanied by one of the following approved signature representations and a block of identifying information as described in rule 16.305(4) (signature block):

1. “Digitized signature” means an electronically applied, accurate, and unaltered image of a person’s handwritten signature.

2. “Electronic signature” means an electronic symbol, either “/s/” or “/efiler’s name/,” that a person has executed or adopted with the intent to sign the document.

3. “Nonelectronic signature” means a handwritten signature applied to an original document that is then scanned and electronically filed.

b. For a nonregistered filer or party signing a document, or for a registered filer signing a document that another filer will electronically file, “signature” means the filer’s or party’s name affixed to the document as a digitized or nonelectronic signature, along with a block of identifying information as described in rule 16.305(4).

COMMENT:

“Signature.” For EDMS filing, a “digital signature” must be treated like a nonelectronic signature. “Digital signature” means a complex string of electronic data that is embedded in an electronic document for the purposes of verifying document integrity and signer identity. It can also be used to ensure that the original content of the message or document that has been delivered is unchanged. When a document is filed in EDMS, it is modified by the electronic file stamp. This causes digitally signed documents to display as altered in EDMS. The filer should print the digitally signed document showing a representation of the signature and the verifying codes, then scan and electronically file the resulting document. If the digitally signed document is an original document as described in rule 16.411, the filer must retain the original document. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.201(36) Specialized nonparty filer. “Specialized nonparty filer” means a filer who may file documents in multiple cases without being a party, such as a bail bond agent or a service provider. *See* rule 16.304(1)(b)(3) (specialized nonparty filer registration).

16.201(37) Specialized nonparty user. “Specialized nonparty user” means a nonparty other than an attorney registered to electronically view and download information from electronic files that are not confidential or protected. A specialized nonparty user may view or download documents in multiple cases and may have access to restricted information. A qualified abstractor is a specialized

nonparty user who may have access to birth dates and names of children. *See* rules 16.304(1)(d) (requirements for specialized nonparty user registration) and 16.502(2) (abstractor remote access). [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.202 to 16.300 Reserved.

DIVISION III GENERAL PROVISIONS

Rule 16.301 Electronic document management system (EDMS). The clerk of court is responsible for maintaining an electronic court file in EDMS for all cases filed under this chapter, receiving case filings into EDMS by electronic transmission and scanning documents into EDMS for nonregistered parties.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.302 Electronic filing mandatory.

16.302(1) *Electronic registration and filing requirements.* All attorneys authorized to practice law in Iowa, all attorneys admitted pro hac vice, and all self-represented persons, except as this chapter provides, must register to use EDMS as provided in rule 16.304(1). Registered filers must electronically submit all documents to be filed with the court unless this chapter or the court otherwise requires or authorizes.

16.302(2) *Exceptions from electronic filing requirements.*

a. One-time exceptions. For good cause, the court at any time, or the clerk of court while the clerk of court office is open, will authorize any filer to submit a document on a one-time basis nonelectronically to the clerk for filing.

b. Self-represented defendants. A self-represented individual defendant who is not yet a registered filer is permitted to make that defendant's initial filing, such as an answer, in paper.

c. Duration of case exceptions. For good cause, the chief judge of the judicial district in which a case is pending, or the chief judge's designee, will excuse a self-represented individual party from registering to file electronically and from filing electronically throughout the case. For purposes of this paragraph, good cause includes lack of regular access to the Internet through a device suitable for reading documents maintained at the party's residence or on the party's person.

d. Court order requirement. Grants and denials of requests for exceptions from registering to file electronically throughout the case will be made by court order.

COMMENT:

Rule 16.302(2). Implementation of electronic filing in Iowa courts should not impede any person's access to justice. When there are legitimate reasons preventing a person from electronic filing, the court should grant that person an exception. A self-represented individual party not only needs to be able to make electronic filings, but also needs to be able to receive and read new electronic filings in a timely manner. Thus, if a party's only access to the Internet is through a public access terminal at a courthouse or through a public library, this should constitute good cause for an exception, if requested, from the requirements for electronic participation in a case. Other grounds may also constitute good cause for an exception from the EDMS registration requirement in a particular case. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.302(3) *Exceptions by rule.* The following persons are excused from the EDMS registration and electronic filing requirements without the necessity of a court order:

a. Self-represented criminal defendants. A self-represented criminal defendant is not required to be but may choose to be a registered filer.

b. Confined parties. A party who is confined pursuant to governmental authority, including but not limited to a person who is incarcerated or civilly committed, is excused from registering to file electronically.

c. Self-represented parents. Self-represented parents of a minor who are parties in a juvenile case are excused from registering to file electronically.

d. Excused persons may become registered filers. If a person excused under this rule chooses to register, the person waives the exception from registering to file electronically and is governed by these rules in the same manner as any registered filer. If the person later desires to be excused from registration, the person must apply for and receive an exception pursuant to the rules of this chapter. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.303 Submission of paper documents.**16.303(1) Submission of paper documents for scanning.**

a. Delivery to clerk of court. If a court authorizes the clerk of court to scan a paper document, the document must be printed on only one side and delivered to the clerk with no tabs, staples, or permanent clips, but it may be organized with paperclips, clamps, or some other type of temporary fastener, or it may be delivered to the clerk in an appropriate file folder.

b. Redacted versions of paper documents containing protected information. If a paper document contains protected information, the filer must make the same redactions that rule 16.605 requires for electronic filings before filing the document in paper. For original documents that the filer has not created, the filer must deliver both a redacted version and the original version of the document to the clerk of court unless rule 16.605(2)(c) applies.

c. Civil cover sheets and confidential information forms. When a filing requires it under the Iowa Rules of Civil Procedure, a filer who is excused from registering to file electronically must complete a civil cover sheet and confidential information form in paper.

16.303(2) Return of documents by mail. If a filer wants the clerk to return an original document that was submitted in paper, the filer must provide the clerk of court a self-addressed, stamped envelope large enough to accommodate the document.

16.303(3) Court retention of paper documents. Except as otherwise provided in these rules, the court will not retain paper documents submitted to it. *See, e.g.,* rule 16.313(1) (items that may be filed nonelectronically).

16.303(4) Paper court files. Except as otherwise provided in these rules or as the court directs, the clerk of court will not maintain paper court files in cases commenced on or after the initiation of electronic filing in a particular county or in the appellate courts. *See, e.g.,* rule 16.313(1) (items that may be filed nonelectronically).

16.303(5) Application of redaction rules for personal privacy protection. The redaction rules for personal privacy protection in division VI of this chapter apply to paper documents submitted for scanning and electronic filing.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.304 Registration; logins; passwords.**16.304(1) Registration.**

a. Registration requirement. Registration is required to file documents electronically in any case this chapter governs and to remotely access and download electronically filed documents. *See* rules 16.302(1) (electronic registration and filing requirements) and 16.502 (access to electronic court files).

b. Filer registration. To file documents with the court electronically, filers, self-represented litigants, and specialized nonparty filers must complete the EDMS registration process. Filers can request an account and obtain a login and password for EDMS in the electronic filing section of the Iowa Judicial Branch website. Filers can access the registration process with personal computers or by using public access terminals at county courthouses.

(1) *Requirements for pro hac vice registration.* Before registering to use EDMS, an out-of-state attorney must first make application for and be admitted pro hac vice pursuant to chapter 31 of the Iowa Court Rules, Admission to the Bar. The in-state attorney appearing with the out-of-state attorney in the proceeding must file the application for admission pro hac vice. If the court grants the application, the out-of-state attorney must complete the registration process in the electronic filing section of the Iowa Judicial Branch website and enter an appearance in the case.

(2) *Requirements for filing agent registration.* An officer, employee, or other nonattorney representative electronically filing for an entity such as a partnership, association, corporation, or tribe must register as a filing agent. If the filing agent appears on behalf of multiple entities under the rules of this chapter, the agent must register separately for each entity the agent represents. *See* rule 16.201(13) (definition of “filing agent”).

(3) *Requirements for specialized nonparty filer registration.* Specialized nonparty filers must register to file electronically. Specialized nonparty filers may include bail bond agents, process servers, and other persons who generally are not considered parties but who need to file documents in multiple cases.

c. Law student and law graduate registration requirements.

(1) To use EDMS, a law student or law graduate qualified to engage in the practice of law or appear as counsel must contact EDMS Support at the number or email address located on the electronic filing

login page of the Iowa Judicial Branch website to obtain an application for registration. The student or graduate must submit a completed application, signed by a supervising attorney, to obtain a login and password.

(2) The student or graduate must enter an appearance in each case in which the student or graduate is practicing and must file to withdraw from each case when the student's or graduate's practice is completed.

(3) Upon termination of the supervision of the student's or graduate's practice, the supervising attorney must notify EDMS Support to have the student's or graduate's registration inactivated.

(4) A law student or law graduate in good standing who resumes practice before admittance to the bar must reinstate his or her former registration by submitting a new application for registration signed by a current supervising attorney.

(5) Once the student or graduate is licensed to practice law in Iowa, the new attorney must withdraw from the law student account and register with the attorney identification number (AT PIN) assigned by the office of professional regulation.

d. Registration requirements for specialized nonparty users and abstractors.

(1) To register, specialized nonparty users must request an application through EDMS Support at the telephone number or email address located on the electronic filing login page of the Iowa Judicial Branch website.

(2) Abstractors are specialized nonparty users. For the purpose of remote access to court documents and otherwise restricted information, an abstractor must either qualify as a "participating abstractor" as recognized by the Title Guaranty Division of the Iowa Finance Authority, be a licensed abstractor at such time that abstractors are licensed in the State of Iowa, or be substantially equivalent to a "participating abstractor" as determined by the state court administrator or the state court administrator's designee.

e. Changing passwords. Once registered, a registered filer must change the filer's password. If a registered person or entity believes the security of an existing password has been compromised, the person or entity must change the password immediately. The court may require password changes periodically.

f. Changes in filers' contact information. If a registered filer's email address, mailing address, or telephone number changes, the filer must promptly make the necessary changes to the registered filer's account information on the My Profile page in the filer's EDMS account. The filer must provide appropriate notice of changes in contact information to any nonregistered filer in every active case.

g. Duties of registered filers.

(1) *To update email.* Registered filers must maintain current registered email account information.

(2) *To monitor account.* Registered filers must monitor their accounts regularly and ensure that notifications sent to the account are timely opened.

(3) *To notify the court when no longer able to participate.* Registered filers who can no longer participate electronically in their cases must notify the court and request an exception from electronic filing in each case. *See* rule 16.302(2). When the registered filer has received an exception in each of the filer's open cases, the registered filer must withdraw from participation in electronic filing before the exceptions become effective.

h. Withdrawal from electronic filing. Registered filers may withdraw from participation in EDMS by logging in to the My Profile page of the filer's EDMS account or by contacting the clerk of court. Upon the withdrawal from electronic filing, the person's or entity's registration, login, and password are canceled and the filer's name is deleted from any applicable electronic service list. A registered filer's withdrawal from participation in EDMS is not authorization to file cases or documents nonelectronically. To file nonelectronically, the filer must obtain an exception from the electronic filing requirement from the chief judge of each judicial district where the filer has a case pending. The filer should obtain an exception from electronic filing before withdrawing from EDMS. A registered filer's withdrawal from participation in EDMS is not a withdrawal from a case.

16.304(2) Logins and passwords. Filers must use logins and passwords to file documents electronically.

a. Any electronic filing, downloading, or viewing of an electronic file or document is deemed to be made with the authorization of the person registered to use the login and password unless and until clear and convincing evidence proves otherwise.

b. A registered filer must not knowingly permit the filer's login and password to be used by any other person except:

(1) A registered attorney may permit the attorney's login and password to be used by an authorized member or staff of the attorney's law office.

(2) A registered filer for an entity or governmental agency may permit the filer's login and password to be used by an authorized member or staff of the entity or governmental agency.

c. If a login or password is lost, misappropriated, misused, or compromised in any way, the person registered to use that login or password must promptly contact EDMS Support at the number or email address located on the electronic filing login page of the Iowa Judicial Branch website. If a login or password is lost, misappropriated, misused, or compromised in any way, the court may cancel the registration. The registered person or entity may be required to apply for a new password and login by completing a new registration.

d. For good cause, the court may refuse to allow a user or a filer to electronically file or download information in EDMS. The affected user or filer may apply with the court to reregister. Improper use of electronic filing, such as an intentional misuse or reckless use of a password or login, may subject a person to court sanctions. A person prohibited from electronic filing is not excluded from using the court system, but the person must obtain authorization under rule 16.302(2) to submit paper documents to the clerk for filing.

e. For system security reasons, a registration may be immediately suspended.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.305 Signatures.

16.305(1) *Registered filers.* A registered filer's login and password required for submission of documents to EDMS, accompanied by a digitized, electronic, or nonelectronic signature representation and a signature block as described in rule 16.305(4)(a), serve as the registered filer's signature on all electronic documents filed with the court. These also serve as a signature for purposes of the Iowa Rules of Civil Procedure, any other applicable Iowa Court Rules, and for any other purpose for which a signature is required in connection with proceedings before the court.

16.305(2) *Nonelectronic signatures.* If a document contains a nonelectronic signature, the signed document must be scanned for electronic filing.

16.305(3) *Documents requiring oaths, affirmations, verifications, acknowledgements, or notarization.* Any document requiring that a signature be made under oath or affirmation or with verification or acknowledgement, or any document being notarized, must be either signed by the subscriber nonelectronically and scanned for electronic filing or signed by the subscriber with a digitized signature. The same requirements apply to any oath giver's or witness's signature.

COMMENT:

Rule 16.305(3). A notary signature cannot be an electronic /s/ signature; it must be a digitized or nonelectronic signature. The notary seal may be electronic pursuant to Iowa Code chapter 9B. If the law requires the document to be signed in the notary's presence, the oath giver's and witness's signatures must be either nonelectronic or digitized (applied by a mechanism such as a signature pad that captures an unaltered image of the signer's signature). See Iowa Secretary of State website for additional information on notarization. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.305(4) *Signature blocks.* Any filing requiring a signature must be signed with a signature representation authorized by these rules and accompanied by a block of identifying information.

a. The following identifying information about the person signing the filing, to the extent applicable, must be typewritten or printed under the person's signature representation:

1. Name.
2. Law firm or name of partnership, association, corporation, or tribe on behalf of which the filing agent is signing.
3. Mailing address.
4. Telephone number.
5. Email address.
6. The email addresses of any other persons at the law firm who are to be notified of additions or corrections to the electronic file.

b. Victims and protected persons may omit mailing addresses, telephone numbers, and email addresses from their signature block when necessary for their protection.

c. Registered filers are responsible for promptly updating the information in (1) through (6) of rule 16.305(4)(a) in their EDMS account. Nonregistered filers are responsible for informing the court of any changes in this information with respect to all cases in which they have appeared.

COMMENT:

Rule 16.305(4). Under the signature rules of chapter 16, the following signature blocks are valid:

/s/ Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515-555-5555
JAttorney@Law.gov

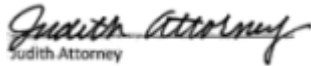
Or,

/s/ with name typed beside symbol as follows:
/s/ Judith Attorney
Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515-555-5555
JAttorney@Law.gov

Or,

/ Judith Attorney /
Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515-555-5555
JAttorney@Law.gov

Or,



Judith Attorney

Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515-555-5555
JAttorney@Law.gov

If the attorney logged in is not the attorney signing, the document must be signed by both, including a signature block for each attorney.

/s/ Judith Attorney
Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515-555-5555
JAttorney@Law.gov

And

/s/ Andrew Attorney
Andrew Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515-555-5555
AAttorney@Law.gov

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.305(5) Multiple signatures.

a. By filing a document containing two or more signatures, the registered filer confirms that the content of the document is acceptable to all persons signing the document and that all such persons consent to having their signatures appear on the document.

b. To receive notice of the filing of subsequent documents in the case, any persons signing the document must be registered filers.

c. After following the requirements of this rule, the registered filer must either:

(1) Scan the original document, with all of the signatures attached, and file the document electronically; or

(2) Electronically file the document in a portable document format (.pdf) using a signature format set out in the comment to rule 16.305(4).

16.305(6) *Signatures presumed valid.*

a. A signature on an electronically filed document is presumed valid and authentic until established otherwise by clear and convincing evidence.

b. A digitized or nonelectronic signature on a document that a governmental agency electronically files for the purpose of obtaining court action or any other signature the court has approved is presumed valid even if the signature is not from a registered filer.

COMMENT:

Rule 16.305(6). This rule does not supersede any foundation or proof requirements contained in the Iowa Code or the Iowa Court Rules.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.305(7) *Disputing authenticity or validity of signatures.* An attorney or a party who disputes the authenticity or validity of any digitized, nonelectronic, or electronic signature on an electronically filed document must file an objection to the signature within 30 days after the attorney or party knew or should have known the signature was not authentic or valid.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.306 Electronic filing.**16.306(1) *Electronic cover sheets.***

a. A registered filer must complete an electronic cover sheet for each filing by entering the proper information into EDMS.

b. Governmental agencies may obtain state court administration approval to use alternative software to exchange electronic records with EDMS. The alternative method for filing or presenting documents must enable correct routing and docket entry of the documents to permit an exception to the electronic cover sheet requirement. The alternative method must also accommodate requests for expedited relief and requests to restrict access to documents.

COMMENT:

Rule 16.306(1). A filer must complete the electronic equivalent of a cover sheet when initiating a case or filing or presenting a document or group of documents for electronic filing. The electronic cover sheet is a series of web pages on which the filer enters information. These web pages differ depending on whether the document is related to a criminal or civil case or whether the document is being filed in a new case or an existing case. A properly completed electronic cover sheet will route the document to the correct electronic file and will create a correct docket entry for the document. The electronic cover sheet may also notify the court of a request for expedited relief or ensure that access to a document is properly restricted. An electronic cover sheet for a new civil case replaces the paper civil cover sheet required by Iowa Rule of Civil Procedure 1.301(2). Only parties excused from registration will file the paper form of the civil cover sheet and the confidential information form. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.306(2) *Filing.* A document is considered filed or presented at the time EDMS has received it, unless the clerk of court returns it.

COMMENT:

Rule 16.306(2). When EDMS receives a district court document, the file stamp records the date and time and generates a status update in the filer's EDMS account. The document is not considered received until the status of "received," "awaiting approval," or "filed" is displayed in the filer's EDMS account. EDMS will generate a status update upon case initiation or a notice of electronic filing or presentation in all other instances that confirms EDMS has received the document. Subject to security and jurisdictional rules, the system also generates a notice of electronic filing or presentation to indexed case parties. When the clerk of court reviews and approves the submission, the system generates a date and time stamp on the document that is the same as the date and time the system noted in the status update—the time EDMS first received the filer's submission in the system. This is the date and time of the official filing of the document with the court system. For example, a filer submits a document to the system at 9:58 p.m. on Thursday, March 30, 2016. Soon after, the status message on the filer's My Filings page will read "Received" and then "Awaiting approval" (for presented documents, the status will be "Filed"). The filer then knows the date and time that the court has received the filing. The following Monday morning the clerk reviews and approves the filing. The system will place a file stamp on the document of 9:58 p.m., March 30, 2016. The clerk of court may also return an incorrect submission with instructions to correct the filing. *See* rule 16.308(2)(d)(2). In this circumstance, the document is not filed and the date and time of filing that the system tracked are not retained. Upon resubmission of the document, a new date and time of filing are assigned and a new status update and notice of electronic filing or presentation are generated. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.306(3) *Emailing or faxing documents does not constitute electronic filing.* Emailing or faxing a document to the clerk of court or to the court will not generate a file stamp or a notice of electronic filing or presentation and will not result in the filing of the document.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.307 Electronic file stamp.

16.307(1) Each document electronically filed with the clerk of court receives a file stamp reflecting the date and time that it was initially received by EDMS.

16.307(2) Each document electronically filed with the clerk of the supreme court receives a file stamp reflecting the date that it was received by EDMS.

16.307(3) The date and time on the file stamp will be consistent with the notice of electronic filing or presentation on the filer's status update. The electronic file stamp becomes a part of the electronic document and is visible when the document is printed or viewed online. Electronic documents are not officially filed unless they have an electronic file stamp. Electronic file stamps have the same force and effect for electronic submissions as nonelectronic file stamps for nonelectronic submissions. *See* rule 16.201(12) (definition of "file stamp").

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.308 Docket entries.

16.308(1) *Selecting document types.* For each electronically filed document, a filer must choose an accurate document type from the options listed on the electronic cover sheet.

16.308(2) *Correcting document types.*

a. Clerk of court to correct document types. Once a document is submitted into EDMS, only the clerk of court may make corrections to the document type the filer has chosen.

b. Clerk of court to correct docket entries. If a docket entry is incorrect, only a clerk of court can correct the docket entry. The docket will reflect that the clerk made a change to a docket entry.

c. Errors that filers discover.

(1) If a filer discovers an error in the electronic filing or docketing of a document, the filer must contact the clerk of court as soon as possible. When contacting the clerk, the filer must have available the case number of the document that was filed or docketed erroneously.

(2) A filer may not refile or attempt to refile a document that has been erroneously filed or docketed unless the clerk of court specifically directs the filer to do so.

(3) To meet a deadline, a filer who discovers an error in the electronic filing or docketing of a document but who cannot immediately contact the clerk of court may resubmit a corrected document.

d. Errors that clerks of court discover.

(1) If the clerk of court discovers an error in the filing or docketing of a document, the clerk will ordinarily notify the filer of the error and advise the filer of what further action the filer must take, if any, to address the error.

(2) The clerk of court may return the submission to the filer with an explanation of the error and instructions to correct the filing. In such instances, it is the responsibility of the filer to keep a record of the notice EDMS generated to verify the date and time of the original submission. The rules of this chapter are not intended to address whether a filer who submits a corrected filing after return of the original submission may have the date and time of the corrected filing relate back to the date and time of the original submission.

(3) If the error is minor, the clerk of court may, with or without notifying the parties, either correct or disregard the error.

(4) An error in the filing or docketing of a document may be an error that adversely affects the proper processing of the document by EDMS, such as a document that is filed in the wrong case, a document that is filed with the wrong event code, or a document that is scanned incorrectly. It may also be an omission of information necessary to properly identify the parties initiating a new case or the subjects of a warrant, a failure to pay a required filing fee, an error that prevents the correct filing fee from being charged, or the omission of a signature from a filing that must be signed.

COMMENT:

Rule 16.308(2). This rule addresses instances when a filer selects an incorrect document type or submits documents that cannot be correctly filed or docketed. The clerk of court may return a submission to the filer for correction when, for example, a document is scanned upside down or sideways, is scanned in such a way that the file stamp cannot be applied, is improperly attached to other documents, or is submitted under the wrong docket entry such that EDMS cannot process the document correctly. It is the filer's responsibility to keep a record of the original submission date and time, as well as the reason for the return of the filing, contained in the Filing Status Reports available through the filer's EDMS account under My Filings. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.309 Date and time of filing; deadlines; technical difficulties.

16.309(1) *Date and time of filing; deadlines.*

a. An electronic filing may be made whenever EDMS is available, including holidays, weekends, and evenings. The availability of electronic filing, however, does not affect deadlines or the provisions for extension of deadlines in the Iowa Code or Iowa Court Rules. When a document is filed electronically, EDMS applies an electronic file stamp to the document reflecting the date or the date and time that the document was actually received by EDMS. *See* rule 16.306(2) and comment and rule 16.307.

(1) *Exceptions for trial informations and minutes of testimony.* Trial informations and accompanying minutes of testimony are not file stamped until the court approves them.

(2) *Submissions that the clerk of court returns.* A submission that the clerk of court returns unfiled because of an error is given a file stamp when the filer submits the corrected version.

b. The date and time of the electronic file stamp are considered the official filing date and time for purposes of computing relevant deadlines.

c. A document is timely filed if it is filed before midnight on the date the filing is due.

d. If a deadline established in these rules is different from a deadline established in a court order in a particular case, the deadline established in the court order controls.

16.309(2) Technical difficulties.

a. A party's technical difficulty or the unavailability of EDMS does not excuse a party from complying with a jurisdictional deadline.

b. If a registered filer is unable to meet a nonjurisdictional deadline due to a technical difficulty, the filer must file the document using the soonest available electronic or nonelectronic means. The filing is not timely unless the court determines it to be timely after the filer has had an opportunity to be heard on the matter.

16.309(3) Notices of system unavailability.

a. *Scheduled maintenance.* When EDMS will not be available due to scheduled maintenance, a notice of the date, time, and anticipated length of the unavailability will be posted on the Iowa Judicial Branch website and to other authorized social media.

b. *Unexpected unavailability.* When EDMS is unexpectedly unavailable, a notice of the problem will be posted on the Iowa Judicial Branch website and other authorized social media.

16.309(4) Extended system unavailability; filing and service. In the event of an extended period when EDMS is not available, the filer may take a paper document to the clerk of court during regular business hours for filing. In such instances, the filer is responsible for service of the document on case parties entitled to service.

16.309(5) Court-generated documents; computation of deadlines. Electronic filings by the court, such as court orders, may be made at any time. They will receive a file stamp reflecting the date and time when EDMS received the filing. The clerk of court will process such filings with reasonable promptness during regular weekday hours before the filing is served electronically on all registered filers. Regardless of when a party receives notice of electronic filing of a court-generated document, the date and time of the file stamp are the official filing date and time for purposes of computing all relevant deadlines.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.309. Electronic filing enables the filing of documents outside of normal business hours. A document filed before midnight on the date the filing is due is considered timely filed. Filers are cautioned, however, not to wait until the last moment to file documents electronically as EDMS may not always be available. Just as a jurisdictional deadline cannot be extended for a filer, who— due to vehicle or traffic problems, for example—arrives at the courthouse moments after the clerk of court office has closed, jurisdictional deadlines cannot be extended for the filer who encounters system or other technical difficulties between the time of close of business and a midnight filing deadline. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.310 Format of electronic documents. All documents filed electronically must be formatted according to applicable rules governing formatting of paper documents in the Iowa Rules of Civil Procedure and the Iowa Rules of Appellate Procedure. A document must be converted to a portable document format (.pdf) and must not be password protected before the document is filed electronically. The filer must ensure that the filing is an accurate, complete, and readable reproduction of the document.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.311 Attachments to electronic documents.

16.311(1) The following documents must be attached electronically to a filed electronic document without a separate electronic cover sheet:

- a. When a court order is required to amend a previously filed document, the proposed amendment must be attached to a motion for leave to file that document.
- b. Any item that is included as an exhibit to a document must be attached to the electronic document.
- c. Any additional pages required to complete a court form must be attached to the electronic court form.

COMMENT:

Rule 16.311(1). Supporting materials attached to an application, motion, court form, or verification of account, etc., were called “exhibits” prior to electronic filing. In EDMS, those supporting materials are called “attachments,” and the term “exhibit” is reserved for evidence entered into the record at a hearing or trial. Examples of documents that are attached to other documents include supporting documents that are attached to an adoption petition, a written notice of intention to file an application for default that must be attached to a request for default, additional pages completing a court form, and evidence or affidavits used to support an application or a motion. The filer uploads the application, form, or motion into EDMS, and then selects “Attachment” as the document type for the supporting materials. When the filer picks the “Attachment” document type, the system prompts the filer to pick the document to attach to. The document and attachment are then electronically linked and will show on the case docket as related. *See* rule 16.412(5) (exhibits to pleadings).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.311(2) Separate documents may be submitted at the same time but must be uploaded separately, with an individual document type selected for each document.

COMMENT:

Rule 16.311(2). Examples of such submissions are a petition for dissolution of marriage, a motion for temporary support, and a financial affidavit. There are, however, some documents that should not have other documents attached to them. For example, nothing should be attached to a proposed document. Also, a proposed order should not be attached to any other document, including the motion or application regarding that order. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.312 Hyperlinks and other electronic navigational aids.

16.312(1) Hyperlinks and other electronic navigational aids may be included in an electronically filed document as an aid to the court and the parties. Each hyperlink must contain a complete text reference to the target of the link. This text reference, when copied, must enable a user to reach the same target that would be reached by activating the hyperlink.

16.312(2) If an electronically filed document contains hyperlinks, the filer is responsible for creating and embedding the links in the document.

16.312(3) Material that can be reached through a hyperlink in an electronic filing is not considered part of the official record or filing unless already part of the record in the case.

16.312(4) Hyperlinks to cited authority may not replace standard citation format for constitutional citations, statutes, cases, rules, or other similarly cited materials.

16.312(5) Hyperlinks may provide an electronic link to other portions of the same document. It is not possible, however, to hyperlink from one document in the electronic court file to another document in the electronic court file.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.312. Use of hyperlinks for cited legal authorities is encouraged. Hyperlinks may also be used to refer the court to other information. Hyperlinks are not part of the filed document, so the filed document must comply with traditional citation requirements. Filers are cautioned, however, that links to external documents or websites may become invalid over time. Additionally, the functionality of hyperlinks will depend on the web browser or computer application used to view the document. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.313 Nonelectronic filings.

16.313(1) *Items that may be filed nonelectronically.* The following documents and other items may be filed nonelectronically and need not be maintained in the electronic court file unless these rules, the clerk of court, or the court otherwise require or authorize electronic filing:

- a. The administrative record in cases in which the court is asked to rule based on that record, but all other documents, including the petition, answer, briefs, and motions, in the judicial review proceedings must be filed electronically and maintained in the electronic court file.
- b. Transcripts of proceedings before the court that are not available in electronic format.
- c. Any item that is not capable of being filed in an electronic format.

COMMENT:

Rule 16.313(1)(a). This rule addresses the cost and time concerns in administrative review cases by allowing the administrative record to be filed in a nonelectronic format. Besides their size, these records often contain sensitive information, such as information protected by federal HIPAA laws. This rule does not encompass cases covered by Iowa Code chapters 252C, 252F, and 252H. The documents generated in those cases should be filed electronically. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.313(2) *Service of notice of items filed nonelectronically.* For items filed nonelectronically pursuant to rule 16.313(1), the filer must file an electronic notice of filing the item.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.314 Original notice.

16.314(1) *Form of original notice.* When a party electronically files a new case, the party must submit an original notice as a separate document type along with the petition in the form the Iowa Rules of Civil Procedure require. In addition, the original notice—except in small claims actions—must:

- a. State that the case has been filed electronically.
- b. Direct the other party to this chapter of the Iowa Court Rules for general rules and information on electronic filing.
- c. Refer the other party to division VI of this chapter of the Iowa Court Rules regarding the protection of personal or confidential information in court filings.

16.314(2) *Clerks of court affixing seal to original notice.* After a petition is filed, the clerk of court will electronically affix the clerk's seal to the original notice and electronically return a sealed and signed original notice to the registered filer.

16.314(3) *Service of original notices.* Original notices must be served upon the party against whom an action is brought in accordance with the Iowa Code and the Iowa Rules of Civil Procedure.

COMMENT:

Rule 16.314(3). Electronic service cannot be used to serve an original notice or any other document that is used to confer personal jurisdiction. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.314(4) *Return of service.* After the original notice is served, the filer must scan and electronically file the return of service. The return of service must contain a listing identifying the documents served.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; Court Order February 15, 2017, temporarily effective February 15, 2017, permanently effective April 17, 2017]

Rule 16.315 Electronic service of documents subsequent to original notice.

16.315(1) *Electronic service of documents filed by registered filers.*

a. Completing the registration process, *see* rule 16.304(1), constitutes a request for, and consent to, electronic service of court-generated documents and documents other parties file electronically.

b. When a document is electronically filed, EDMS serves the document on all parties who are registered filers. *See* rule 16.201(11) (definition of “electronic service”). Service occurs by the posting of a notice of electronic filing or presentation into the filer's EDMS account along with a link to the document or documents presented or filed. The posting of the notice of electronic filing or presentation constitutes service of the document for purposes of the Iowa Court Rules. No other service on those parties is required.

c. Notice of electronic filing or presentation will only be provided to registered filers and registered case parties who have filed an entry of appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor.

d. Notices of electronic filing or presentation will continue to be provided to a registered filer until the filer has filed a withdrawal from the case and, if applicable, obtained an order allowing the withdrawal.

e. Electronic service is not effective if the filer learns the notice of electronic filing or presentation was not transmitted to a party.

f. EDMS will not provide notices of electronic filing or presentation for documents filed pursuant to rule 16.405(4), 16.702, 16.703, or 16.802, or on documents that require personal service to confer jurisdiction. The filer is responsible for service of documents that must be personally served to confer jurisdiction in accordance with rule 16.315(2) on service to nonregistered filers.

COMMENT:

Rule 16.315(1)(e). Subject to the exceptions in rule 16.315(1)(f), when EDMS receives a filing covered by this rule, EDMS will automatically generate a notice of electronic filing or presentation, which contains a list of the parties who were served electronically and a list of the parties who must be served by other means. It is the responsibility of the filer to review the notice of electronic filing or presentation to ensure that all parties that require service have received it. If the filer learns of a delivery failure, the filer must provide service to that person by other means. A notice of electronic filing or presentation will not be generated on case initiation, on applications for warrants, on emergency applications (such as emergency removals or emergency detention in juvenile cases), or on documents proposed for restricted access or filed under an order restricting access. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.315(2) *Service of paper copies on parties.* Parties must serve a paper copy of any filed document on a party who is not a registered filer in a manner authorized by the Iowa Code or the Iowa Court Rules, unless the parties agree to another method of service. When serving paper copies of electronically filed documents in cases with multiple nonregistered filers other than criminal defendants, the filer must include a copy of the notice of electronic filing or presentation. The clerk of court will provide a copy of the notice of electronic filing or presentation upon a nonregistered filer's request.

16.315(3) *Service of documents that nonregistered filers file or present.*

a. Service on registered filers of documents that nonregistered filers file or present will be made by the clerk electronically through EDMS, except for service of restricted access documents filed under rule 16.405. *See* rule 16.201(11) (definition of "electronic service").

b. When a nonregistered filer submits a document to the clerk of court, the clerk will process the filing or presentation with reasonable promptness during regular weekday business hours before the filing is served electronically on all registered filers. In such event, the date and time on the file stamp are considered the official date and time of service for purposes of computing all relevant deadlines.

c. Nonregistered filers must serve a paper copy of documents they file with or present to the court on all persons entitled to service who are nonregistered filers in the manner the Iowa Rules of Civil Procedure or the Iowa Rules of Criminal Procedure require.

d. If a party receives a one-time exception to electronic filing pursuant to rule 16.302(2)(a), the procedures and requirements of rule 16.315(3) apply.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; Court Order February 15, 2017, temporarily effective February 15, 2017, permanently effective April 17, 2017]

Rule 16.316 Certificate of service. A certificate of service must be filed for all documents EDMS does not serve. These include documents that must be served on parties who are nonregistered filers, documents that must be served on persons or entities seeking to intervene in a confidential case, documents that persons or entities file pursuant to rule 16.319(2), and discovery materials. *See, e.g.,* rules 16.315(1)(b), 16.319(1)(c), and 16.401(1)(a). The certificate must be filed promptly and show the date and manner of service. The certificate of service may be included on the last page of the document.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.317 Additional time after electronic service. When service of a document is made electronically, the time to respond is computed in the same manner as the Iowa Rules of Civil Procedure and the Iowa Rules of Appellate Procedure require for service by mail, fax, or email.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.318 Service of court-generated documents.

16.318(1) *Electronic notice and service for registered filers.* EDMS will electronically serve any court-generated document on all registered filers entitled to service. *See* rule 16.201(11) (definition of "electronic service"). Posting the notice of electronic filing or presentation in the registered filer's EDMS account constitutes service or notice of the document. Notice of electronic filing or presentation will only be provided to registered parties who have entered an appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor. Notices of electronic filing or presentation will continue to be provided to a registered filer until the filer has filed a proper withdrawal of appearance in a case and, if applicable, obtained an order allowing the withdrawal.

16.318(2) *Nonelectronic notice and service for nonregistered filers.* The clerk of court will mail paper copies of electronically filed court-generated documents to nonregistered filers entitled to service. In cases with additional nonregistered filers, the clerk may include a copy of the notice of electronic filing or presentation with the paper copy of the document. The clerk will not mail paper copies to registered parties who have not properly filed an entry of appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor. The clerk will not mail paper copies of court-generated documents to nonregistered parties represented by counsel unless the rules or a court order otherwise require it.

16.318(3) *Certificate of service.* For court-generated documents that EDMS does not electronically serve, the clerk of court may note on the docket the parties served and the method of service instead of filing a certificate of service.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.319 Filing by potential intervenors or by nonparties.

16.319(1) *Potential intervenor filers.*

a. Manner in which to intervene. A person or entity seeking to intervene to become a party to a case must electronically file the application to intervene and all related documents unless excused from EDMS registration under rule 16.302(2).

b. Access to court file.

(1) Until the court grants the application to intervene, the person or entity seeking to intervene cannot download or view any confidential part of the court file, and the person or entity will not receive a notice of electronic filing or presentation of any document filed in the case.

(2) If the court grants the application to intervene, the person or entity must promptly file an entry of appearance or a notice of case association.

(3) An entry of appearance or a notice of case association must be filed before the person or entity can receive a notice of electronic filing or presentation.

c. Service.

(1) The documents a person or entity seeking to intervene files must be served pursuant to rules 16.315(1)(b) and 16.315(2).

(2) The person or entity seeking to intervene is required to serve a paper copy of the document on parties who are nonregistered filers. *See* rule 16.315(2).

(3) If the court or a party files a document related to the application to intervene, a paper copy of the document must be served on the potential intervenor in the same manner as a nonregistered filer. *See* rules 16.315(2) and 16.318(1).

(4) If the application to intervene is granted, the intervenor will subsequently be served copies of filed documents pursuant to rules 16.315 and 16.318(2).

COMMENT:

Rule 16.319(1). Examples of a party seeking to intervene in a case include a grandparent or relative seeking to become a party in a chapter 232 Child-in-Need-of-Assistance case or an attorney for an interested party in an estate. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.319(2) *Nonparty filers.*

a. Filing. Nonparty persons or entities entitled to file documents in a case without becoming a party need not appear in order to file documents. However, a nonparty filer must use electronic filing unless excused from EDMS registration under rule 16.302(2).

b. Access to court files. A nonparty cannot access the case remotely or download or view any confidential part of the court file. Additionally, a nonparty will not receive a notice of electronic filing or presentation of any document filed in the case.

c. Service. EDMS will serve on registered parties any documents a nonparty files. *See* rule 16.315(1)(b). The nonparty, however, must serve a paper copy of the document on parties who are nonregistered filers. *See* rule 16.315(2). If service of a document on the nonparty is required, a paper copy of the document must be served on the nonparty in the same manner as on a nonregistered filer. *See* rules 16.315(2) and 16.318(2).

COMMENT:

Rule 16.319(2). This rule describes the filing and serving of documents when the filer does not intend to intervene to become a party to the case and will not enter an appearance or file an answer or a notice of case association in order to be indexed to the case by the clerk of court. An example of a nonparty filer who wishes to file on a case but not become a party to the

case is a person who seeks to quash a subpoena. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.320 Limited appearances.

16.320(1) *Entry of appearance.* An attorney whose role in a case is limited to one or more individual proceedings in the case must file a notice of limited appearance before or at the time of the proceeding. Upon the filing of this document, the attorney will receive electronic service of filed documents.

COMMENT:

Rule 16.320(1). An entry of limited appearance is made on behalf of a case party and gives the attorney full case access and electronic notifications on the case. If an attorney is not filing on behalf of an existing party, the attorney should file an application to intervene pursuant to rule 16.319(1) or file as a nonparty filer (rule 16.319(2)). Access to some confidential files or documents may require a court order. An example of an attorney filing an entry of limited appearance is an attorney hired by a petitioner in a dissolution case to represent that petitioner at a hearing on temporary custody. This rule is consistent with the Iowa Rules of Civil Procedure on limited appearances in that electronically filing the notice of limited appearance will cause EDMS to serve the notice on all registered parties. If there is a nonregistered party in the case, the filer must serve the notice on that party by other means. *See* chapter 32:1.2 Rules of Professional Conduct. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.320(2) *Termination of limited appearance.* At the conclusion of the matters covered by the limited appearance, the attorney must file a notice of completion of limited appearance. Upon the filing of this document, the attorney will no longer receive electronic service of documents filed in the case.

16.320(3) *Service on party.* During a limited appearance, the party on whose behalf the attorney has entered the appearance will continue to receive service of all documents.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.321 to 16.400 Reserved.

DIVISION IV FILING PROCESS

Rule 16.401 Discovery.

16.401(1) *Service of discovery materials.*

a. Service. Parties may serve requests for discovery, responses to discovery, and notices of deposition by email on registered filers.

b. Time service occurs. When service is made by email, the time to respond is computed according to the Iowa Rules of Civil Procedure.

16.401(2) *Filing notice of discovery requests and responses.* Parties must file a notice with the court when serving a request for discovery, a response to discovery, or a notice of deposition on another party. The notice must identify the document served and include the date, manner of service, and the names and addresses of the persons served. This rule only requires the filing of a notice of deposition or a notice indicating that a discovery request or response was made. Parties should continue to follow the Iowa Rules of Civil Procedure with respect to the filing of discovery materials.

COMMENT:

Rule 16.401(2). This rule adds a layer of protection for parties. Registered filers' computer filters may occasionally filter out an emailed discovery request or response. Rule 16.401(2) ensures that registered filers will at least know they should have received a discovery document. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.402 Transcripts. Transcripts must be filed electronically in a secure format in accordance with rule 16.601(2), any administrative directive from the state court administrator, and the formatting requirements of Iowa Rule of Appellate Procedure 6.803(2). Transcripts of court proceedings on appeal from the district court must be electronically filed as searchable .pdf documents into the district court case file.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.403 Expedited relief. Requests for expedited relief must be noted on the electronic cover sheet.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.404 Briefs. Legal briefs and memoranda must be electronically filed.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.405 Restricting access to filings.

16.405(1) Scope. This rule covers restricting access to filings in the court system, including documents, exhibits, docket entries, cases, and other items or materials.

16.405(2) Applications to restrict access.

a. A filer seeking to restrict access to materials that are not deemed confidential by statute or rule must file an application to restrict access.

b. If a filer seeks to restrict access to a document or exhibit, the document or exhibit must not be attached to the application or the document or exhibit will become part of the public court file.

c. Documents or exhibits proposed for restricted access must be electronically presented to the court for review when reasonably practicable.

d. Either in the application to restrict access or in a proposed order presented with the application, the filer must clearly state who should have access to the materials.

e. If the court grants the application, restricted access will be placed on the materials at the security level specified in the order. If a document or exhibit is electronically presented with the application, the document or exhibit will be filed with the access specified in the order.

f. Rules governing electronic filing of restricted access documents in appeals to the Iowa Supreme Court are included in the Iowa Rules of Appellate Procedure.

COMMENT:

Rule 16.405(2)(d). For example: “Only attorneys and case parties should have access to this document.” [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.405(2)(e). The court may approve the application and restrict access to the material to a specific level, or the court may deny the application and either order that the material be filed with public access or order that the material not be filed. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.405(3) Documents or exhibits filed subsequent to order to restrict access. If the court enters a protective order or an order directing or permitting the filing of documents or exhibits with restricted access, the parties must, without further order from the court, designate any document or exhibit filed under this rule as “Filed under order to restrict access” on the electronic cover sheet. All parties to the case must comply with any order restricting access. Any document or exhibit disclosing information that is subject to an order restricting access must also be filed with restricted access.

16.405(4) Service of documents or exhibits proposed for restricted access or filed under order restricting access. EDMS will not serve documents or exhibits that are proposed for restricted access or that are filed under an order restricting access. The filer is responsible for service under rule 16.315.

16.405(5) System-restricted documents, exhibits, or cases. Access to certain categories of documents, exhibits, or cases is restricted based on statutory or court rule requirements. Within EDMS, access is restricted automatically without application or an order of the court. A current list of system-restricted documents, exhibits, and cases is available from the clerk of court and is available on the Iowa Judicial Branch website.

16.405(6) Access to restricted documents and docket entries. EDMS restricts access to documents in three ways:

a. Some documents available only to certain parties and the court may be referenced in a docket entry available to the public. In civil cases, most restricted access documents are referenced in a docket entry available to the public, but only certain parties and the court may view the documents themselves.

b. Some documents available only to certain parties and the court may not be referenced in a docket entry available to the public.

c. Some documents available only to the court are not referenced in a docket entry available to the parties or the public.

COMMENT:

Rule 16.405(6)(a). Examples of these documents include presentence investigation reports, minutes of testimony, and

documents filed under restricted access pursuant to this rule. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.405(6)(c). Examples of these documents include applications for search warrants and search warrants that have not been executed. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.405(7) Nonelectronic filings. All nonelectronic filings with the court must conform to the personal privacy rules that apply to electronic documents.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.406 In camera inspection. When the court orders in camera inspection of material, such material may be electronically presented to the court. After the court has examined the material and has entered an order concerning the issues raised by the material, if the court does not order the material to be produced in whole or in part, the court will file the presented material and restrict access to the level of security available to clerks of court and judges only.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.407 Subpoenas. The clerk of court may electronically make subpoenas available to registered filers in accordance with the Iowa Rules of Civil Procedure and the Iowa Rules of Criminal Procedure.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.408 Clerk of court certification of documents. Certified copies of electronically filed documents may be obtained from the clerk of court electronically or nonelectronically. The fee for a certified copy is established in the Iowa Code and the Iowa Court Rules. The clerk may certify documents by digitized or electronic signature and seal.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.409 Proposed orders. A proposed order may be electronically presented with a motion or without a motion. The proposed order must be submitted in an editable format capable of being read by Microsoft Word. Acceptable fonts are: Arial, Times New Roman/Times, Courier New, Tahoma/Geneva, Helvetica, Calibri, and Cambria. The document must not be password protected.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.410 Court reporter notes. Court reporters who have computer-aided transcription capability must electronically file court reporter notes.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.411 Original documents.

16.411(1) Generally.

a. When the law requires the filing of an original document, such as a will, codicil, mortgage document, note payable, birth certificate, foreign judgment, or other certified or verified document, the filer must scan the original document and electronically file the scanned document.

b. The filer must retain the original document for a period of no less than two years or until the conclusion of the case, conclusion of the appeal, conclusion of the estate, or as required by other applicable law.

c. The filer must immediately deliver the original document to the court upon request of the court or a party for inspection and nonelectronic preservation.

d. When the document is an original will, codicil, or a document having physical characteristics that must be present for the document to be valid or enforceable, the filer may, after filing the document electronically, submit it to the clerk of court for nonelectronic preservation.

16.411(2) Exceptions for authorized governmental agencies. A governmental agency with statutory authority to destroy an original document after making an unaltered image or electronic

reproduction of the original document must retain and, upon request of the court or other party, immediately deliver an unaltered image or electronic reproduction of the original document to the court or other party for inspection and reproduction, if necessary.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.412 Exhibits.

16.412(1) *Maintenance of hearing and trial exhibits.*

a. Exhibits offered at a hearing or a trial must be maintained electronically for purposes of the record.

b. Exhibits offered at a hearing or a trial that cannot reasonably be maintained electronically may be maintained nonelectronically for purposes of the record.

c. Prior to offering an exhibit, the submitting party must redact the exhibit pursuant to division VI of this chapter (Personal Privacy Protection), except as provided in rule 16.601(3) (exhibits).

COMMENT:

Rule 16.412(1). EDMS is designed to store or maintain in an electronic form as many exhibits as possible. Rule 16.412 does not specify when exhibits should be converted to electronic form and decisions on when to do so will need to be made on a case-by-case basis. Examples of exhibits that may not be reasonably maintained electronically include physical exhibits, large or original photographs, and blueprints. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.412(2) *Electronic submission of proposed exhibits.*

a. A party may submit proposed exhibits to the court prior to the hearing or trial in which the party intends to offer the proposed exhibits for admission into evidence. Upon submission through EDMS, each proposed exhibit will receive a file stamp. Case attorneys and self-represented case parties will have access to proposed exhibits. Exhibits offered or admitted into evidence are subject to the public access and personal privacy rules of divisions V and VI of this chapter.

b. Each proposed exhibit must be submitted as a separate docket event. The filer must insert a description into the “Additional Text” field. An exhibit that exceeds the required size limit as posted in the electronic filing section of the Iowa Judicial Branch website must be separated into parts of an acceptable size, and each part must be filed as a separate attachment under the same docket event. When an exhibit is filed in multiple parts, the filer must insert a description for each part into the “Additional Text” field.

c. At the conclusion of the trial or hearing, the court, except in juvenile court proceedings, shall enter an exhibit maintenance order that states which proposed exhibits were offered or admitted into evidence. If no party files an objection to the exhibit maintenance order within 10 business days, the clerk of court thereafter may delete proposed exhibits that are not listed in the order.

COMMENT:

Rule 16.412(2). Access to proposed exhibits filed before trial is restricted to self-represented case parties, attorneys indexed to the case, and the court. The court may ask attorneys who have filed proposed exhibits to bring paper copies to trial for the court and jury. If an exhibit in a public case contains protected information, the party offering it, or the party filing it as proposed, must redact the protected information before the exhibit becomes public. Rule 16.601(3) allows the submitting party 14 days to redact the exhibit before it becomes public. Admitted exhibits that a party has not identified as containing protected information generally become public. Exhibits submitted in paper in all proceedings, including proceedings listed in rules 16.412(3) and 16.412(6), may remain in paper unless the matter is appealed, at which time the clerk of court will scan the exhibits. Examples of descriptions in the “Additional Text” field for proposed exhibits include “Exhibit 1—Contract” or “Exhibit A—Letter from Jane Doe.” Examples of “Additional Text” field descriptions for exhibits filed in multiple parts include “Exhibit 1.1—Contract (Part 1)” or “Exhibit 1.2—Contract (Part 2).” [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.412(3) *Exhibits offered at a hearing or a trial that were not submitted as proposed exhibits.* When offered or admitted at hearing or trial, an exhibit that can reasonably be maintained electronically, but that was not previously submitted as a proposed exhibit, will remain nonelectronic unless the court orders otherwise. Upon an appeal in the case, the clerk of court will electronically file the exhibit.

16.412(4) *Index of nonelectronic exhibits.* When a party offers one or more exhibits that will be maintained nonelectronically under rule 16.412(1)(b), (c), or (d), the party must electronically file an index of the exhibits. The index should list and briefly describe the nonelectronic exhibits.

16.412(5) *Exhibits to pleadings.* Under rule 16.311(1), evidentiary material that is submitted with or attached to a motion or other pleading must be filed as an attachment and should not be submitted as a proposed exhibit.

16.412(6) *Submission of proposed exhibits in small claim, simple misdemeanor, traffic, and municipal infraction cases.* Proposed exhibits may be but are not required to be submitted

electronically in small claim, simple misdemeanor, traffic, and municipal infraction cases. The submitting party must redact proposed exhibits, whether electronic or nonelectronic, pursuant to division VI of this chapter prior to submitting the proposed exhibits. Upon initiation of an appeal in the case types included in this rule, the clerk of court will convert exhibits admitted in nonelectronic form to an electronic form when possible.

16.412(7) *Submission of video and audio exhibits.*

a. Video exhibits. Video exhibits must be submitted in the following format: .avi, .flv, .mpeg, .mp4, .wms, or .mov. Or, the video exhibit must be submitted with a player application that allows the exhibit to be viewed. Video exhibits cannot be electronically filed but may be submitted to the court on a media storage device such as a CD, DVD, or flash drive. The media storage device must contain only the exhibit or exhibits and any required player application and no other files or applications. Upon initiation of an appeal the clerk of court will provide any video exhibits to the appellate court.

b. Audio exhibits. Audio exhibits must be submitted in the following format: .wav, .mp3, or .wma. Or, the audio exhibit must be submitted with a player application that allows the exhibit to be heard. Audio exhibits cannot be electronically filed but may be submitted to the court on a media storage device such as a CD, DVD, or flash drive. The media storage device must contain only the exhibit or exhibits and any required player application and no other files or applications. Upon initiation of an appeal, the clerk of court will provide any audio exhibits to the appellate court.

c. Video and audio exhibits in an appeal to district court. Transcribed portions of a video or audio exhibit may be included in documents filed in an appeal to the district court, provided the transcribed material was properly admitted in the underlying court case. The parties must not embed or include actual audio or video in any documents filed in an appeal to the district court.

16.412(8) *Disposition of scanned exhibits.* Exhibits for which the clerk of court is responsible for scanning will be disposed of according to the requirements of the Iowa Rules of Civil Procedure and Iowa Rules of Criminal Procedure.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.413 to 16.500 Reserved.

**DIVISION V
PUBLIC ACCESS**

Rule 16.501 General rule. All filings in the Iowa court system are public unless system restricted or filed with restricted access. Electronic filing does not affect public access to court files.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.501. Electronic filing does not affect which documents or court files the public may access or which documents or files are deemed confidential. Any member of the general public may view a nonconfidential file or document from public access terminals located at the courthouse in which the case is pending. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.502 Access to electronic court files.

16.502(1) *Registered filers.*

a. Attorneys licensed to practice law in Iowa. Registered attorneys licensed to practice law in Iowa have remote access to all public documents in public court files except in juvenile delinquency cases prior to the child's being adjudicated delinquent. Registered attorneys who are licensed to practice law in Iowa have limited access to birth dates and names of children, which are normally considered protected information under rule 16.602, in public court files. Access to the birth dates and names of children in cases in which an attorney has not entered an appearance is limited to confirmation of the information the attorney supplies regarding the birth date or child's name in a particular case.

b. Attorneys admitted pro hac vice. Registered attorneys admitted pro hac vice have remote access only to the documents filed in the cases in which the attorneys are admitted pro hac vice.

c. Self-represented litigants and parties to a case. Registered self-litigants and parties to a case who have obtained a login and password have remote access only to documents filed in the cases in which they are a party.

16.502(2) *Abstractors.* Abstractors have remote access to all public documents in public court files. See rule 16.304(1)(d). Abstractors have limited access in public court files to birth dates and

names of children, which are normally considered protected information under rule 16.602. Access to birth dates and names of children is limited to confirmation of information that the abstractor supplies regarding the birth date or child's name in a particular case.

16.502(3) *Specialized nonparty filers.* Specialized nonparty filers, *see* rule 16.304(1)(b), may file documents in cases in which they are not a party, but specialized nonparty filers do not have remote access to electronic court files.

16.502(4) *Members of the general public.*

a. Members of the general public may view electronic documents in public cases at public access terminals in the county courthouse in which the case is pending.

b. To view electronic documents in public cases on appeal to the Iowa Supreme Court, members of the general public may use a public access terminal located in the Judicial Branch Building in Des Moines, Iowa, or a public access terminal located in the county courthouse in which the underlying case originated.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.503 Public access terminals. The Iowa Judicial Branch will maintain at least one public access terminal in each county courthouse and in the Judicial Branch Building.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.504 Bulk distribution. The Iowa Judicial Branch may fulfill requests for copies or reproductions of public electronic documents or records filed in more than a single electronic case if fulfilling such requests will not impair or interrupt the regular operation and efficiency of EDMS and complies with administrative directives or approvals from the state court administrator.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.504. Such state court administrator directives or approvals may take into consideration the system, staffing, and equipment capacity of EDMS. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.505 to 16.600 Reserved.

DIVISION VI
PERSONAL PRIVACY PROTECTION

Rule 16.601 Responsibility to redact or mask protected or confidential information.

16.601(1) *Responsibility of filers generally.*

a. It is the responsibility of the filer to ensure that protected information is omitted or redacted from documents before the documents are filed. This responsibility exists even when the filer did not create the document.

b. The clerk of court will not review filings to determine whether appropriate omissions or redactions have been made. The clerk will not, on the clerk's own initiative, redact or restrict access to documents containing protected information.

c. A filer waives the protections of the rules in division VI of this chapter as to the filer's own information by filing the information without redaction.

16.601(2) *Transcripts.*

a. When a transcript is filed that contains protected information, the court reporter must also file a notice of transcript redaction along with a redacted version of the transcript in accordance with administrative directives from the state court administrator.

b. The parties to the action are also responsible for ensuring the appropriate information in the transcript is redacted. After the court reporter has filed a notice of transcript redaction, each party must within 21 days from the date of the filing of the notice of transcript redaction review the designated material and, if necessary, request additional designation of protected information or note where information was improperly redacted. To stipulate to additional redactions or corrected redactions, the parties must file the Stipulation Re: Transcript Redaction form found in the electronic filing section of the Iowa Judicial Branch website.

c. The court will resolve any disagreement on the designation of protected information.

d. The redacted transcript will not be available to the public until all requests for additional designation or claims of improper redaction are resolved.

e. A party's failure to file a response within 21 days from the date the notice of transcript redaction is filed is deemed the party's agreement that the transcript is properly redacted.

16.601(3) Exhibits.

a. *Electronically submitted exhibits.* If protected information must be included in an exhibit pursuant to rules 16.603(2) and 16.603(4), the submitting party must redact the proposed exhibit.

b. *Nonelectronic exhibits offered at hearing or trial.* If protected information is included in a nonelectronic exhibit that was offered at a hearing or trial, the offering party must inform the court of the inclusion of protected information and request that the exhibit be treated as a confidential document. Within 14 days of offering the nonelectronic exhibit identified as containing protected information, the offering party must electronically file a redacted copy of the exhibit that will be available to the public.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.601. The redaction rules in division VI apply to all documents filed electronically as well as to filings submitted to the court in paper on electronic cases, such as exhibits that are offered in paper at a hearing or trial or filings an excused filer submits in paper for the clerk of court to scan. The personal privacy protection rules, 16.601 through 16.609, assist in protecting certain identifying information from widespread dissemination and possible misuse. To provide greater protection, parties should not put this information in documents filed with the court unless it is required by law or is material to the proceedings. If the information is required by law or material to the proceedings, parties should carefully follow the redaction rules in division VI. Disclosure of protected information in orders and other court-generated documents that require enforcement or action by someone outside the court falls under rule 16.603(4). [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.602 Protected information. Protected information includes the following:

1. Social security numbers.
2. Financial account numbers.
3. Dates of birth.
4. Names of minor children.
5. Individual taxpayer identification numbers.
6. Personal identification numbers.
7. Other unique identifying numbers.
8. Confidential information as defined in rule 16.201.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.603 Omission and redaction requirements.

16.603(1) *Protected information that is not required by law or is not material to the proceedings.* A filer may omit protected information from documents filed with the court when the information is not required by law or is not material to the proceedings.

16.603(2) *Protected information that is required by law or is material to the proceedings.* When protected information is required by law to be included or is material to the proceedings, a filer may record the protected information on a separate protected information form. *See* rule 16.606. The filer must ensure that the protected information is redacted from any other document before filing the document with the court. *See* rule 16.605 (manner in which to redact protected information).

16.603(3) *Restricted access documents.* Parties are not required to redact protected information from documents that are confidential by statute, rule, or court order. Redaction is required, however, for materials that are initially confidential but which later become public, such as documents in dissolution proceedings.

16.603(4) *Disclosure allowed.* A filer may disclose protected information only when that information is an essential or required part of the document or the court file. Disclosure of protected information must be as narrow as reasonably practicable.

a. All orders and other court-generated documents containing protected information that require enforcement or action by someone outside the court fall under rule 16.603(4).

b. Judicial officers may include protected information in a nonpublic court order to obtain required enforcement or action with a redacted public version of that order.

COMMENT:

Rule 16.603(4)(a). Such documents include, but are not limited to, the following: writs of execution that require a full financial account number; juvenile transportation orders and placement orders containing a child's full name and identifying information; letters of appointment with full names of minors in guardianship and conservatorship cases; qualified domestic

relation orders; protective orders and other orders containing full names of juveniles; and applications, orders, and resulting arrest warrants, juvenile summons, and writs of mittimus containing a defendant's full name, date of birth, and social security number. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.603(5) *Full disclosure of the names of minor children.* The name of a minor child may be case information that is an essential or material part of the court record. *See* rule 16.801(2)(a) (regarding use of the full name of minors in juvenile delinquency cases).

COMMENT:

Rule 16.603(5). Examples of when the name of a minor child is essential to the court record include: the name of a minor child who is the ward in a guardianship or conservatorship case or who is the subject of a civil name change petition; or the name of a minor child who is a criminal defendant, defendant on a traffic citation or municipal infraction, or defendant in a domestic abuse or elder abuse case or other such case. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.603(6) *Redaction in cases after disposition.* A party must apply to the court to file a redaction of a document in a case in which judgment is final. The application must state the reasons for and manner of redaction. When the court has approved the application, the filer must electronically file the redaction.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.604 Information that may be redacted. A filer may redact the following information from documents available to the public unless the information is required by law or is material to the proceedings:

1. Driver's license numbers.
2. Information concerning medical treatment or diagnosis.
3. Employment history.
4. Personal financial information.
5. Proprietary or trade secret information.
6. Information concerning a person's cooperation with the government.
7. Information concerning crime victims.
8. Sensitive security information.
9. Home addresses.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.605 Manner in which to redact protected information.

16.605(1) *Documents created for filing with the court.* When protected information that is required by law or that is material to the proceedings must be included in a document that a filer is creating specifically for filing with the court, when reasonably practicable only a portion of the protected information should be used.

COMMENT:

Rule 16.605(1). Examples of portions of protected information include: if a Social Security number must be included in a document, only the last digit of that number is used; if financial account numbers are relevant, only incomplete numbers are recited in the document; if a person's date of birth is necessary, only the year is used; if a minor child's name must be mentioned, only the child's initials are used.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.605(2) *Original documents that are required to be filed with the court.*

a. When an original document contains protected information that is required by law or is material to the proceedings as specified in rule 16.602, the filer must redact that information.

b. The unredacted version of the original document must be filed if such filing is required by law or the redacted information may be material to the proceeding.

c. If an original document has multiple pages that contain entirely protected information, a single page may be submitted in the public version of the document.

d. If a paper document contains protected information, the filer is responsible for making the same redactions on paper before filing the document that are required for electronic filings in rule 16.605. For original documents that have not been created by the filer, the filer must deliver both a redacted version and the original version of the document to the clerk of court unless rule 16.605(2)(c) applies.

COMMENT:

Rule 16.605(2)(a) and (b). If the unredacted version must be filed, the filer must scan in and file the unredacted version. The filer then must scan and file the redacted version, selecting "Redaction" as the document type on the electronic cover sheet. The filer must then relate the redaction to the original document. EDMS will file the unredacted version as restricted access and the redacted version as the public version of the document. For example, when filing an original birth certificate into a change of name case, the filer makes a copy of the birth certificate, using a permanent marker to black out the date of birth on the copy.

The filer then scans and files the original birth certificate as an exhibit or attachment, then scans and files the redacted copy as a redaction. Only the redacted copy will be available to the public. A filer should not rely on software to redact protected information as the information may in fact be retrievable. Documents redacted in this way may be alterable and the protected information revealed. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.606 Protected information form.

16.606(1) *Protected information form required.* When a filer is required to include protected information in a filed document, the filer may file a protected information form. The electronic filing section of the Iowa Judicial Branch website provides the form. The protected information form must contain the protected information in its entirety as well as the redacted version of the information used in the filed document. All references in the case to the redacted information included in the protected information form will be construed to refer to the corresponding complete protected information. The protected information form is not available to the public but is available to case parties.

16.606(2) *Supplementing protected information form.* When new information is needed to supplement the record or if information already contained in the protected information form needs to be updated or corrected, the parties must file an updated protected information form including all previously disclosed protected information plus any additions, changes, or corrections.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.607 Orders and other court-generated documents. All orders and other court-generated documents will follow the omission and redaction requirements in rule 16.603. Orders and other court-generated documents will use the redacted version of the protected information found in the protected information form that the parties file. *See* rule 16.606. Orders and other court-generated documents containing protected information that require enforcement or action by someone outside the court are governed by rule 16.603(4).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.608 Improperly included protected information.

16.608(1) A party may apply to the court to redact improperly included protected information from a filed document or court file and may request an immediate order to temporarily restrict access to the document or court file pending notice and opportunity to be heard by all parties.

16.608(2) If, after all parties have been provided an opportunity to be heard, the court finds protected information was improperly included in a filed document, the court may restrict access to the document and may order a properly redacted document to be filed.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.609 Sanctions. If a filer incorrectly files documents containing unredacted protected information, the court, upon its own motion or upon the motion of any party, may impose sanctions. A sanction imposed under this rule must be limited to that which will deter repetition of the conduct or comparable conduct by others. The sanction may include nonmonetary directives or an order to pay a penalty into court. If a party is required to file a motion to address a violation of division VI of this chapter, the court may award to the moving party reasonable attorney's fees and other expenses directly resulting from the violation.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.610 to 16.700 Reserved.

DIVISION VII
CRIMINAL CASES

Rule 16.701 Criminal cases generally.

16.701(1) *EDMS in criminal cases.* All criminal cases will be opened using EDMS.

16.701(2) *Applicability of other chapter 16 rules to criminal cases.* The rules in divisions I through VI of the Iowa Rules of Electronic Procedure, including rules on the protection of personal privacy, apply in criminal cases except as stated in this division.

16.701(3) *Self-represented criminal defendants.* A self-represented criminal defendant is not required to register but may choose to register for electronic filing. If a person excused from electronic filing chooses to register, the person waives the exception and is governed by these rules in the same manner as any registered filer. A person who subsequently desires to be excused must apply for and receive an exception pursuant to these rules.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.702 Warrants and other similar applications. When made during regular court hours, applications for search warrants, applications for arrest warrants, and other similar applications may be electronically presented to the court. Applications made when the courthouse is closed may be electronically presented to the court in the same manner as proposed orders are presented pursuant to rule 16.409. If the applicant or the court does not have immediate access to such technology, the application must be presented to the court in paper form and later scanned into EDMS.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.703 Documents initiating criminal cases.

16.703(1) *Trial informations and indictments.*

a. Trial informations. Trial informations must be electronically presented to the court for approval. If the court approves the trial information, the information is electronically file stamped and filed. If the court refuses to approve the trial information, the prosecuting attorney is electronically notified.

b. Indictments. Indictments containing a nonelectronic signature of a foreperson of a grand jury must be scanned before being electronically filed in EDMS.

16.703(2) *Complaints, traffic tickets, and similar citations.* Complaints, traffic tickets, or similar citations containing the electronic signature of an arresting officer or other person must be transmitted to EDMS in such a manner as to legibly reproduce an unaltered image of the required signature or display a realistic image of the signature.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.704 Signatures of criminal defendants. When a criminal defendant's signature is required on a document, the signature may be placed on the document in the following ways.

16.704(1) *Nonelectronic signature.* A criminal defendant may sign a document nonelectronically, and the document must be scanned for electronic filing.

16.704(2) *Computer tablet signature.* A criminal defendant may electronically sign a document using a computer tablet or similar technology.

16.704(3) *Login and password.* A criminal defendant who is a registered filer may sign the document using the defendant's login and password accompanied by a digitized or electronic signature. *See* rule 16.705 (documents requiring oaths, affirmations, or verifications).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.705 Documents requiring oaths, affirmations, or verifications. Any document requiring a signature to be made under oath or affirmation or with verification may be signed either nonelectronically and scanned into EDMS or may be signed with a digitized signature.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.705. Uniform citations and complaints are examples of documents under rule 16.705. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.706 Copies of documents for self-represented defendants. The court will provide self-represented criminal defendants who have not registered for electronic filing paper copies of all documents submitted to the court or filed by the court.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.707 Written plea agreements. Written plea agreements may be electronically presented to the court but need not be filed prior to a plea proceeding. If the plea is accepted, the electronically presented plea agreement is filed.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.708 to 16.800 Reserved.

DIVISION VIII JUVENILE CASES

Rule 16.801 Juvenile cases generally.

16.801(1) *EDMS in juvenile cases.* All juvenile cases, with the exception of waivers of parental notification, will be opened using EDMS.

16.801(2) *Applicability of other chapter 16 rules to juvenile cases.* The rules in divisions I through VI of the Iowa Rules of Electronic Procedure, including rules on the protection of personal privacy, apply in all juvenile cases except as stated in this division.

a. Exception to protected information rule 16.602 for the name of a minor child. The name of a minor child who is the subject of a petition or complaint alleging delinquency will not be disclosed and is considered protected information unless exempted under Iowa Code section 232.147.

b. Exception for nonregistered self-represented parents, guardians, or legal custodians. Nonregistered self-represented parents, guardians, or legal custodians of a minor child in a juvenile case are excused from registration and electronic filing.

c. Exception to exhibit maintenance order. The juvenile court may use but is not required to use the exhibit maintenance order in juvenile proceedings.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.802 Emergency applications. When made during regular court hours, applications for emergency orders may be electronically presented to the court. Applications made when the courthouse is closed may be electronically presented to the court in the same manner as proposed orders are presented pursuant to rule 16.409. If the applicant or the court does not have immediate access to such technology, the application may be presented to the court in paper form and later scanned into EDMS.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.802. Examples of emergency applications include applications for placement in shelter care, placement in detention, requests for emergency medical care, and removal from parental custody. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.803 Signatures. When the signature of a parent, guardian, custodian, child as defined in the Iowa Code, or adult within the jurisdiction of the juvenile court is required on a document, the signature may be placed on the document in one of the following ways:

16.803(1) *Nonelectronic signature.* The person may sign a document nonelectronically and the document must be scanned for electronic filing.

16.803(2) *Computer tablet signature.* The person may electronically sign a document using a computer tablet or similar technology.

16.803(3) *Login and password.* If the person is a registered filer, the person may sign the document using the person's login and password, accompanied by a digitized or electronic signature. See rule 16.804 (documents requiring oaths, affirmations, or verifications).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.804 Documents requiring oaths, affirmations, or verifications. Any document requiring a signature to be made under oath or affirmation or with verification may be signed either nonelectronically and scanned into the electronic document management system or may be signed with a digitized signature.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.805 to 16.900 Reserved.

CHAPTER 31

ADMISSION TO THE BAR

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CHAPTER 31 ADMISSION TO THE BAR

Rule 31.1 Board of law examiners.

31.1(1) *Composition.*

a. The board of law examiners shall consist of five persons admitted to practice law in this state and two persons not admitted to practice law in this state. Members shall be appointed by the supreme court. A member admitted to practice law shall be actively engaged in the practice of law in this state.

b. Appointment shall be for three-year terms and shall commence on July 1 of the year in which the appointment is made. Vacancies shall be filled for the unexpired term by appointment of the supreme court. Members shall serve no more than three terms or nine years, whichever is less.

c. The members thus appointed shall sign a written oath to faithfully and impartially discharge the duties of the office and shall file the oath in the office of professional regulation. They shall be compensated for their services in accordance with the provisions of Iowa Code section 602.10106.

d. The supreme court may appoint temporary examiners to assist the board, who shall receive their actual and necessary expenses to be paid from funds appropriated to the board.

e. The members of the board of law examiners and the temporary examiners shall be paid a per diem in an amount the supreme court sets for each day spent in conducting or grading the examinations of the applicants for admission to the bar and in performing administrative and character and fitness investigation duties. They shall also be reimbursed for additional expenses necessarily incurred in the performance of such duties.

f. The director of the office of professional regulation will designate an assistant director for admissions of the office of professional regulation to serve as the principal administrator for the board of law examiners. Wherever in this chapter a reference to the “assistant director” appears, it shall refer to the assistant director for admissions of the office of professional regulation.

g. The director of the office of professional regulation must, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget covering the board’s operations for the upcoming fiscal year. Approval of the budget by the court authorizes payment as provided in the budget. A separate bank account designated as the admissions operating account must be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement must be deposited in the admissions operating account for payment of the board’s authorized expenditures.

h. Claims against members of the board and the director, assistant directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

i. The board of law examiners and its members, employees, and agents; temporary law examiners; and the director, assistant directors, and the staff of the office of professional regulation are immune from all civil liability for damages for conduct, communications, and omissions occurring in the performance of and within the scope of their official duties relating to the examination, character and fitness qualification, and licensing of persons seeking to be admitted to the practice of law.

j. Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity, including any person, firm, or institution, without malice, to the board of law examiners, its members, employees, or agents, or to the director, assistant director, and the staff of the office of professional regulation are privileged, and civil suits for damages predicated thereon may not be instituted.

31.1(2) *Duties.*

a. The board may adopt rules to govern the method of conducting the bar examination. Such rules shall be consistent with these rules and are subject to supreme court approval.

b. The authority to pass on the sufficiency of applications for permission to take the bar examination is vested in the board of law examiners, subject to supreme court review.

c. The members of the board authorized to grade examinations shall make the final decision on passage or failure of each applicant, subject to the rules of the supreme court. The board shall also recommend to the supreme court for admission to practice law in this state all applicants who pass the bar examination and the Multistate Professional Responsibility Examination, and who meet the requisite character and fitness requirements. The board, in its discretion, may permit an applicant to take the bar examination prior to finally approving that person as to character and fitness. It

may impose specific conditions for admission based on its evaluation of character and fitness and shall withhold recommendation of admission until those conditions are satisfied. An applicant who passes the bar examination shall satisfy such character and fitness conditions and any other conditions imposed by the board within one year of the date of the applicant's passage of the examination. This period may be extended by the board upon the applicant's showing of good cause. If any conditions imposed are not satisfied within the applicable period of time, the applicant's passage of the examination is null and void and the applicant must retake the bar examination in order to gain admission. The supreme court shall make the final determination as to those persons who shall be admitted to practice in this state.

d. An applicant who has passed the examination and is eligible for admission must be administered the lawyer's oath by a supreme court justice within one year of the date the bar examination score was posted or the date of fulfilling all eligibility requirements, whichever is later. An applicant who fails to be administered the oath within this deadline will no longer be eligible for admission and the applicant's passage of the examination will be null and void. This deadline may only be extended by the board upon a showing of exceptional circumstances.

[Court Order July 2, 1975; September 20, 1976; April 17, 1990, effective June 1, 1990; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; November 9, 2001, effective February 15, 2002; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; February 20, 2012; December 10, 2012; November 20, 2015, effective January 1, 2016]

Rule 31.2 Registration by law students.

31.2(1) Every person intending to apply for admission to the bar of this state by examination shall, by January 15 of the year after the person commences the study of law in an accredited law school, register with the Iowa board of law examiners on forms furnished by the board and pay the required fee of \$40. The board may designate data submitted as a confidential record. Any confidential data shall be segregated by the board and the assistant director from the portion of the registration filed as a public record.

31.2(2) If any person shall fail to so register, the board may, if it finds that a strict enforcement of this rule would work a hardship and that sufficient excuse exists for failing to comply with rule 31.2(1), waive the requirements of this rule as to the date of filing. Refusal of the board to waive such requirement shall be subject to supreme court review. If the registration is not on file by the January 15 registration deadline set forth in rule 31.2(1), but is on file by December 1 immediately preceding the registrant's July examination or July 1 immediately preceding the registrant's February examination, the registration fee will be \$150. If the registration is not timely filed, but is on file by April 1 immediately preceding the registrant's July examination or November 1 immediately preceding the registrant's February examination, the registration fee will be \$250. This fee is not refundable and shall be in addition to the fee required under rule 31.6. The failure to file the registration by the January 15 deadline of rule 31.2(1) may result in delays in conducting the board's character and fitness investigation. The board will not expedite its character and fitness investigation because the registration form is not timely filed. The board may conclude the registrant should not be permitted to take the bar examination until the investigation is completed. The registrant will not be eligible for admission to the bar until the character and fitness process is completed.

31.2(3) Registration as a law student under this rule is not deemed an application for permission to take the bar examination.

31.2(4) The registration shall be accompanied by letters prepared by three persons not related to applicant by consanguinity or affinity attesting to the registrant's good moral character. The letters must be signed and shall include contact information for the reference provider. The letters shall state how the reference knows the registrant, how long the reference has known the registrant, and the basis for concluding the registrant possesses good moral character.

31.2(5) The board shall review each registration and may require the personal presence of any registrant at such time and place as the board may prescribe for interview and examination concerning the registrant's character and fitness. The board may at any time find it advisable to make further inquiry into the character, fitness, and general qualifications of the registrant, and with regard to each registration, the board shall have all of the powers given it in respect to inquiry and investigation of candidates for admission to the bar.

[Court Order July 2, 1975; September 20, 1976; December 16, 1983—received for publication May 30, 1984; February 16, 1990, effective March 15, 1990; April 16, 1992, effective July 1, 1992; March 26, 1993, effective July 1, 1993; December 2, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court

Rule 112); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; April 9, 2009; December 10, 2012; August 21, 2013; April 25, 2014]

Rule 31.3 Required examinations.

31.3(1) *Iowa bar examination.* The provisions of this rule apply to the dates and content of the Iowa bar examination beginning with the February 2016, examination administration.

a. Written examinations for admission to the bar will be held in Polk County, Iowa, commencing with a mandatory orientation session on the Monday preceding the last Wednesday in February and on the Monday preceding the last Wednesday in July.

b. The Iowa Bar Examination will be the Uniform Bar Examination (UBE) prepared and coordinated by the National Conference of Bar Examiners (NCBE). The UBE is given and graded according to standards agreed upon by all UBE jurisdictions and consists of three components: the Multistate Essay Examination (MEE), the Multistate Bar Examination (MBE), and the Multistate Performance Test (MPT). Applicants must take all three components in the same examination administration to earn a UBE score that is transferable to other UBE jurisdictions. The three-hour MEE component consists of six essay questions, the three-hour MPT component consists of two performance tests, and the MBE component consists of two three-hour sessions of 100 multiple-choice questions each. The schedule may vary for applicants who are granted testing accommodations. Transferred or banked MBE scores are no longer accepted.

c. The MEE portion of the examination consists of questions from subjects the NCBE designates. Some MEE questions may include issues from more than one area of law. Subject matter outlines for the MEE are available on the NCBE web site.

d. Applicants must achieve a combined, scaled score of 266 or above to pass the examination. The bar examination results require a vote of at least four members of the board of law examiners admitted to practice law in Iowa.

31.3(2) *Multistate Professional Responsibility Examination.*

a. Each applicant for admission by examination must earn a scaled score of at least 80 on the Multistate Professional Responsibility Examination (MPRE) administered by the NCBE. The applicant's MPRE score must be on file with the board no later than April 1 preceding the July examination or November 1 preceding the February examination. MPRE scores will only be accepted for three years after the date the MPRE is taken.

b. It is the responsibility of the applicant to ensure that a score report from the NCBE is sent to the board by the date indicated above. An applicant who cannot meet the deadline for posting a passing MPRE score must file a petition asking for permission to post a passing score after the deadline. The petition must state why the score could not be timely posted and indicate when the applicant will take the MPRE. A petition to post the score prior to the bar examination may be addressed by the board, but a petition to post a score after the bar examination must be addressed by the supreme court.

[Court Order July 2, 1975; September 17, 1984; October 23, 1985, effective November 1, 1985; January 3, 1996; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 101); July 26, 1996; September 12, 1996; October 3, 1997; July 11, 2000; November 9, 2001, effective February 15, 2002; August 28, 2006; June 5, 2008, effective July 1, 2008; September 17, 2008; December 10, 2012; December 16, 2014; October 15, 2015]

Rule 31.4 Admission by transferred UBE score.

31.4(1) *UBE score transferability.* An applicant who has earned a UBE score in another jurisdiction may transfer the UBE score and file an application for admission by transferred UBE score at any time on or after December 1, 2015, provided:

a. The transferred UBE score is NCBE-certified and is a combined, scaled score of 266 or above.

b. The application includes a nonrefundable administrative fee of \$525.

c. The applicant causes the NCBE to transfer the UBE score no later than three months after the application is filed.

d. The applicant has received an LL.B. or a J.D. degree from a reputable law school fully or provisionally approved by the American Bar Association at the time the applicant graduated. Proof of this requirement will be by affidavit of the law school's dean on an Iowa dean's affidavit form. The affidavit must be made before an officer authorized to administer oaths and having a seal.

e. The applicant has earned a scaled score of at least 80 on the Multistate Professional Responsibility Examination (MPRE) administered by the NCBE.

f. The applicant has not been denied admission or permission to sit for a bar examination by any jurisdiction on character and fitness grounds.

31.4(2) *Time limits for transferring a UBE score.* A UBE score can be transferred to Iowa subject to the following time limits:

a. Any applicant may transfer a qualifying UBE score without a showing of prior legal practice if the score was from a UBE administered within two years immediately preceding the transfer application filing date.

b. An attorney applicant may transfer a qualifying UBE score up to five years after the examination was taken upon proof that the applicant regularly engaged in the practice of law for at least two years of the last three years immediately preceding the transfer application filing date. The board may require the applicant to provide a certificate of regular practice required for motion applicants under Iowa Court Rule 31.13(1)(b) that addresses the period of practice this rule requires.

31.4(3) *Character and fitness investigation.*

a. The board will investigate the moral character and fitness of any applicant for admission by transferred UBE score and may procure the services of any bar association, agency, organization, or individual qualified to make a moral character or fitness report on the applicant. The board may require that an applicant obtain, at applicant's expense, an investigative report from the NCBE if, in the board's judgment, the application reveals substantial questions regarding the applicant's character or fitness to practice law. Any applicant obtaining an NCBE investigative report must pay the NCBE required fee in addition to the administrative fee. The board's decision to require an NCBE report is not subject to review.

b. The board may impose specific character and fitness or other conditions for admission on the applicant and will withhold recommendation of admission until those conditions are satisfied.

31.4(4) *Time for satisfying admission requirements.* Applicants for admission by transferred UBE score must satisfy all requirements for admission to the bar of this state within one year after the date of written notification to the applicant that the transfer application has been granted or of the conditions the board has imposed. The one-year period may be extended by the board upon the applicant's showing of good cause. The supreme court will make the final determination as to those persons who will be admitted to the practice in this state.

31.4(5) *Only certified UBE scores will be accepted.* The board will not accept transferred scores unless they are certified as UBE scores by the NCBE and will not address petitions to treat a noncertified score as a UBE score.

31.4(6) *Oath or affirmation before Iowa Supreme Court; exceptions.*

a. An applicant who is granted admission by transferred UBE score must appear for admission by oath or affirmation before an Iowa Supreme Court justice, unless the supreme court orders otherwise based upon the applicant's satisfactory showing of exceptional circumstances.

b. An applicant may file a petition seeking permission to be administered the lawyer's oath or affirmation in the jurisdiction in which the applicant is currently licensed or before a judge advocate general if the applicant is currently a member of one of the armed services of the United States. The petition must set forth in detail: the exceptional circumstances that render the applicant unable to appear for admission before an Iowa Supreme Court justice; the name, title, business address, and telephone number of the justice, judge, clerk of court, court administrator, or judge advocate general who will administer the lawyer's oath or affirmation; and the statute or court rule authorizing that person to administer an oath or affirmation.

c. If the supreme court grants the petition, the office of professional regulation will forward all required documents to the applicant. The applicant will be deemed admitted to the Iowa bar on the date the completed documents are filed with the office of professional regulation.

d. The applicant must take the lawyer's oath or affirmation from an Iowa justice, or file the completed paperwork from an out-of-state oath or affirmation, within one year after the date the application for admission is granted or the application will be deemed to be denied.

[Court Order June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 102); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; September 17, 2008; October 15, 2015]

Rule 31.5 Bar examination application—contents and deadlines.

31.5(1) The board of law examiners and the assistant director shall prepare such forms as may be necessary for application for examination. The application shall require the applicant to demonstrate the applicant is a person of honesty, integrity, and trustworthiness, and one who appreciates and will

adhere to the Iowa Rules of Professional Conduct as adopted by the supreme court, together with such other information as the board and the assistant director determine necessary and proper.

31.5(2) Every applicant for admission to the bar shall make application, under oath, and upon a form furnished by the assistant director. The applicant shall file the application with the assistant director no later than April 1 preceding the July examination or November 1 preceding the February examination. An applicant who fails the Iowa bar examination and wants to take the next examination must file a new application within the above deadlines or within 30 days of the date the applicant's score is posted in the office of professional regulation, whichever is later. There shall be no waiver of these deadlines. If any changes occur after the application is filed that affect the applicant's answers, the applicant must amend the application. A new and complete application shall be filed for each examination for admission.

31.5(3) The board may designate portions of the data submitted for this purpose by the applicant or third parties as a confidential record. The board and the assistant director shall segregate that portion of the application data deemed confidential from the portion which is filed as a public record. In the event of a request for a hearing on character or fitness under rule 31.11(4) following an initial determination by the board, it may designate any additional information received at the hearing and all proceedings before the board as a confidential record.

[Court Order October 14, 1968; July 2, 1975; November 21, 1977; March 20, 1987, effective June 1, 1987; February 16, 1990, effective March 15, 1990; March 26, 1993, effective July 1, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 103); November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 20, 2007, effective July 1, 2007; June 5, 2008, effective July 1, 2008; September 17, 2008; December 10, 2012]

Rule 31.6 Fee. Every applicant for admission to the bar upon examination must, as a part of the application, remit to the Iowa board of law examiners an application fee. For applicants not previously admitted to practice law in any other state or the District of Columbia, the fee is \$425. For applicants previously admitted to practice law in another state or the District of Columbia, the fee is \$525. This fee is not refundable and cannot be applied to a subsequent application. The full fee must be remitted within the deadline for filing the bar application under rule 31.5(2).

[Court Order July 2, 1975; December 16, 1983—received for publication May 30, 1984; April 16, 1992, effective July 1, 1992; March 26, 1993, effective July 1, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 113); October 11, 2001; November 9, 2001, effective February 15, 2002; August 21, 2013; October 15, 2015]

Rule 31.7 Affidavit of intent to practice.

31.7(1) All applicants for the Iowa bar examination must demonstrate a bona fide intention to practice law in Iowa or another UBE jurisdiction. This showing must be by affidavit made before an officer authorized to administer oaths and having a seal.

31.7(2) The affidavit must include the applicant's designation of the clerk of the supreme court as the applicant's agent for service of process in Iowa for all purposes.

[Court Order July 2, 1975; November 21, 1977; October 28, 1982; December 30, 1983; April 25, 1985; March 23, 1994, effective July 1, 1994; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 105); November 9, 2001, effective February 15, 2002; October 15, 2015]

Rule 31.8 Degree requirement. No person shall be permitted to take the examination for admission without proof that the person has received the degree of LL.B. or J.D. from a reputable law school fully approved by the American Bar Association. Proof of this requirement shall be by affidavit of the dean of such law school, and shall show that the applicant has actually and in good faith pursued the study of law resulting in the degree required by this rule. The affidavit must be made before an officer authorized to administer oaths and having a seal.

If an applicant is a student in such a law school and expects to receive the degree of LL.B. or J.D. within 45 days from the first day of the July or February examination, the applicant shall be permitted to take the examination upon the filing of an affidavit by the dean of said school stating that the dean expects the applicant to receive such a degree within this time. No certificate of admission or license to practice law shall be issued until the applicant has received the required degree. If the applicant

fails to obtain the degree within the 45-day period, the results of the applicant's examination shall be null and void.

[Court Order July 15, 1963; February 9, 1967; December 30, 1971; February 15, 1973; July 2, 1975; November 21, 1977; June 13, 1983; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 106); May 2, 1997; November 9, 2001, effective February 15, 2002]

Rule 31.9 Moral character and fitness.

31.9(1) The Iowa board of law examiners shall make an investigation of the moral character and fitness of any applicant and may procure the services of any bar association, agency, organization, or individual qualified to make a moral character or fitness report.

a. Immediately upon the filing of the application, the chair of the Iowa board of law examiners shall notify the president of a local bar association and the county attorney of the county in which the applicant resides of the filing of the application. If either of said officers is possessed of information which reflects adversely on the moral character or fitness of the applicant, such information shall be transmitted to the chair of the board of law examiners not less than 60 days in advance of the holding of the examination.

b. The Iowa board of law examiners shall, subject to supreme court review, determine whether or not the applicant is of good moral character and fitness. In making its determination, the board shall consider the applicant's candor in the application process and in any interactions with the board or its staff.

31.9(2) *Denial of permission to take bar examination; denial of recommendation for admission.* When the board of law examiners determines that any person who registers or makes application should not be permitted to take a bar examination, or that an applicant who has passed a bar examination should not be recommended for admission to practice law in Iowa, the board shall notify the applicant in writing of its determination.

a. The notice shall provide that the applicant is entitled to a hearing to challenge the determination upon filing a written request for hearing with the assistant director within 10 days after service of the notice.

b. The assistant director shall serve the notice on the applicant by mail to the address shown on the applicant's application.

c. If no request for hearing is filed, the board's determination shall be final and not subject to review.

d. If a request for hearing is filed, the chair of the board shall appoint an attorney member of the board to act as a hearing officer. The hearing officer shall promptly set a hearing, and the assistant director shall notify the applicant by mail at least 10 days before the hearing date of the time and place of hearing.

e. Not less than 10 days before the hearing date, the board shall furnish the applicant with copies of all document and summaries of all other information the board relied on in making its determination.

f. The clerk of court in the county where the hearing is held shall have authority to issue any necessary subpoenas for the hearing.

g. At the hearing, the applicant shall have the right to appear in person and by counsel. The board may be represented by the attorney general of the state of Iowa or a duly appointed assistant attorney general. The hearing shall be reported. The hearing officer shall take judicial notice of the information the board considered in the case and shall consider such additional evidence and arguments as may be presented at the hearing. At the hearing, the board shall first present any additional evidence or information that it deems necessary to the proceeding. Thereafter the applicant shall present evidence. The attorney for the board may offer rebuttal evidence at the discretion of the hearing officer. In presiding at the hearing, the hearing officer shall have the power and authority administrative hearing officers possess generally.

h. Within 30 days after completion of the hearing, the hearing officer shall provide the board with a hearing transcript, exhibits, and findings of fact and conclusions of law. Based on this information, the board shall prepare and file its final determination with the assistant director. The assistant director shall, by mail, promptly notify the applicant of the board's final determination.

31.9(3) *Supreme court review.* Any applicant aggrieved by a final determination of the board made pursuant to rule 31.9(2) may file a petition requesting review of the determination in the supreme court within 20 days of the mailing of notice of final determination. The petition must be accompanied by a \$150 fee. If no such petition is filed within the 20-day period, the board's determination shall not be subject to review. A petition for review shall state all claims of error and reasons for challenging

the board's determination. The board shall transmit to the supreme court its files and complete record in the case. Unless the court orders otherwise, the petition shall be deemed submitted for the court's review on the record previously made. After consideration of the record, the court shall enter its order sustaining or denying the petition. The order of the court shall be conclusive. No subsequent application for admission by a person denied under rule 31.9(2) shall be considered by the board unless authorized by the court upon the applicant's motion accompanied by a prima facie showing of a substantial change of circumstances.

31.9(4) *Costs of review.* In the event an applicant or person who is registered petitions for review under rule 31.9(3) and is unsuccessful, the costs of the appeal shall be taxed against the unsuccessful applicant and judgment therefor may be entered in the district court of that person's county of residence, if an Iowa resident, or in the district court for Polk County if a nonresident.

31.9(5) *Failure to comply with support order.* The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who fails to comply with a support order.

a. Procedure. The Child Support Recovery Unit (CSRU) shall file any certificate of noncompliance that involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.20(1), except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an application for hearing from the applicant, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.20(2).

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify applicants subject to enforcement under Iowa Code chapter 252J or 598.

31.9(6) The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the College Student Aid Commission.

a. Procedure. The College Student Aid Commission (the commission) shall file any certificate of noncompliance that involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.21(1), except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an application for hearing from the applicant, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.21(2).

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the court.

31.9(7) The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the Centralized Collection Unit of the Department of Revenue (CCU).

a. Procedure. The CCU shall file any certificate of noncompliance that involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.22(1), except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an application for hearing from the applicant, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.22(2).

c. Noncompliance certificate withdrawn. If a withdrawal of a certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if

necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the CCU for the sole purpose of allowing the CCU to identify applicants subject to enforcement under Iowa Code chapter 272D.

[Court Order July 2, 1975; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 104); December 20, 1996; November 25, 1998; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008; February 20, 2012; December 10, 2012]

Rule 31.10 Preservation of anonymity. Each applicant permitted to take the bar examination shall be randomly assigned a number at the beginning of the examination, by which number the applicant shall be known throughout the examination.

Either the assistant director or the director of the office of professional regulation, or their representatives, shall prepare a list of the applicants, showing the number assigned to each at the beginning of the examination, certify to such facts, seal said list in an envelope immediately after the beginning of said examination and retain the same sealed, in their possession, unopened until after the applicant's score has been properly recorded. The envelope shall then be opened in the presence of the Iowa board of law examiners and the correct name entered opposite the number assigned to each applicant, in the presence of the Iowa board of law examiners.

[Court Order July 2, 1975; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 107); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008]

Rule 31.11 Automatic review.

31.11(1) Score range for review. An applicant whose combined, scaled score on the current examination is at least 260, but less than 266, will have an automatic review of the applicant's written answers in the MEE and MPT components of the bar examination prior to release of the bar examination results. The board will not review any examination with a combined, scaled score that does not fall within this range, and the board will not conduct any review after release of the bar examination results.

31.11(2) Procedures for automatic review. The board will apply the following procedures for an automatic review:

a. The attorney members of the board and any temporary examiners the board may designate will review the applicant's written answers. The answers will be submitted on an anonymous basis without oral argument or hearing. If it appears that an answer should receive a different score (whether higher or lower), that score will be used to determine the applicant's scaled score. The board will maintain a record of any changes made to the scoring of the individual questions on review.

b. Following its review, the board will recommend to the supreme court that the applicant be admitted to the practice of law in Iowa if the applicant's combined, scaled score after review is at least 266. An applicant whose combined, scaled score after review is 265 or below will be deemed to have failed the examination.

31.11(3) Supreme court review.

a. An unsuccessful applicant whose combined, scaled score on the bar examination is at least 260, but less than 266, may file a petition in the supreme court requesting review of the board's determination. However, the board's decision regarding an applicant's score is final and will not be reviewed by the court absent extraordinary circumstances. "Extraordinary circumstances" would include issues such as the board's refusal to correct a clear mathematical error, but would not include a claim that the board erred in the grade assigned to a particular answer.

b. The petition must be filed with the clerk of the supreme court and served upon the board. The petition must be filed within 20 days of the date the applicant's score is posted in the office of professional regulation and must be accompanied by a \$150 fee. The petition must identify in detail the extraordinary circumstances requiring supreme court review of the board's determination. If a petition is not filed within the 20-day period, the board's determination is not subject to review.

c. Upon request of the court, the board will transmit to the supreme court the complete record in the case. Unless the court orders otherwise, the court will review the petition on the record previously made. After consideration of the record, the court will enter its order sustaining or denying the

petition. The order of the court is conclusive. All documents submitted for the court's review, other than the applicant's petition, are confidential.

[Court Order July 2, 1975; September 20, 1976; April 25, 1985; March 31, 1986, effective May 1, 1986; April 17, 1990, effective June 1, 1990; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 117.1) July 19, 1999; November 9, 2001, effective February 15, 2002; June 20, 2007, effective July 1, 2007; June 5, 2008, effective July 1, 2008; February 20, 2012; July 13, 2012; October 15, 2015]

Rule 31.12 Admission of attorneys from other jurisdictions—requirements and fees.

31.12(1) An applicant who meets the requirements of this rule and rule 31.13 may, in the discretion of the court, be admitted to the practice of law in this state without examination.

31.12(2) The applicant shall file the application with the National Conference of Bar Examiners through their online character and fitness application process unless an exception is granted by the Office of Professional Regulation. The applicant shall pay a nonrefundable administrative fee of \$525 to the Office of Professional Regulation at the time of filing the application. The character investigation services of the National Conference of Bar Examiners shall be procured in all cases where application for admission on motion is made. The applicant shall pay the investigative fee required by the National Conference of Bar Examiners at the time of filing the application.

31.12(3) The application and supporting affidavits, which shall contain specific facts and details as opposed to conclusions and which shall be made before an officer authorized to administer oaths, must demonstrate the following:

a. The applicant has been admitted to the bar of any other state of the United States or the District of Columbia, has practiced law five full years while licensed within the seven years immediately preceding the date of the application, and still holds a license.

b. The applicant is a person of honesty, integrity, and trustworthiness, and one who will adhere to the Iowa Rules of Professional Conduct. In evaluating this factor the court may consider any findings filed with the Office of Professional Regulation by the Commission on the Unauthorized Practice of Law pursuant to Iowa Ct. R. 37.3.

c. The applicant is not currently subject to lawyer discipline in any other jurisdiction.

31.12(4) The applicant shall provide such information as the court deems necessary and proper in connection with the application. If any changes occur that affect the applicant's answers, the applicant must immediately amend the application.

31.12(5) The applicant shall designate the supreme court clerk for service of process.

31.12(6) For purposes of this rule, the practice of law shall include the following activities:

a. Representation of one or more clients in the practice of law.

b. Service as a lawyer with a local, state, or federal agency.

c. The teaching of law as a full-time instructor in a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association in this state or some other state.

d. The discharge of actual legal duties as a member of one of the armed services of the United States, if certified as the practice of law by the judge advocate general of such service.

e. Service as a judge in a federal, state, or local court of record.

f. Service as a judicial law clerk.

g. Service as corporate counsel.

h. Service as an employee or officer of any business, but only if such service would ordinarily constitute the practice of law and was performed in a jurisdiction in which the applicant has been admitted to practice.

31.12(7) For purposes of this rule, the practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.

31.12(8) The following applicants shall not be eligible for admission on motion:

a. An applicant who has failed a bar examination administered in this state within five years of the date of filing of the application under this rule.

b. An applicant who has failed five or more bar examinations.

c. An applicant whose Iowa license is in exempt or inactive status under the provisions of rule 39.7 or rule 41.7.

d. An applicant who has been disbarred and not reinstated or whose license is currently suspended in any other jurisdiction.

[Court Order July 2, 1975; September 20, 1976; February 12, 1981; Note September 30, 1981; Court Order December 17, 1982; December 30, 1983; April 23, 1985; November 8, 1985; March 31, 1986, effective May 1, 1986; November 21, 1991, effective January 2, 1992; November 30, 1994, effective January 3, 1995; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 114); May 2, 1997; October 11, 2001; November 9, 2001, effective February 15, 2002; February 22, 2002; April 20, 2005, effective July 1, 2005; August 6, 2007; February 14, 2008, effective April 1, 2008; October 15, 2008; August 10, 2009; January 19, 2010; July 13, 2012; December 10, 2012; August 21, 2013]

Rule 31.13 Proofs of qualifications; oath or affirmation.

31.13(1) *Required certificates, affidavit, and fingerprint card.* The following proofs must be filed with the office of professional regulation to qualify an applicant for admission under rule 31.12:

a. A certificate of admission in the applicant's state of licensure.

b. A certificate of a clerk or judge of a court of record, or of a judge advocate general or an administrative law judge, that the applicant was regularly engaged in the practice of law in said state for at least five of the last seven years immediately preceding the date of the application. If, due to the nature of the applicant's practice, the applicant cannot obtain a certificate from a clerk, judge, judge advocate general, or an administrative law judge, the applicant must file a petition seeking leave to file an alternative certificate demonstrating good cause why the certificate cannot be obtained. If the supreme court grants the petition, the applicant must file an affidavit detailing the nature, dates, and locations of the applicant's practice, along with an affidavit of a supervising attorney or another lawyer attesting to the applicant's practice over that period.

c. A certificate of an applicant's good moral character from a judge or clerk of the Iowa district court or of a court where the applicant has practiced within the last five years.

d. A completed fingerprint card.

31.13(2) Oath or affirmation.

a. An applicant whose application for admission without examination is granted must appear for admission before a supreme court justice unless the supreme court orders otherwise based upon a satisfactory showing of exceptional circumstances.

b. An applicant may file a petition seeking permission to be administered the lawyer's oath or affirmation in the jurisdiction in which the applicant is currently licensed or before a judge advocate general if the applicant is currently a member of one of the armed services of the United States. The petition must set forth in detail: the exceptional circumstances that render the applicant unable to appear for admission before a justice of the supreme court of Iowa; the name, title, business address, and telephone number of the justice, judge, clerk of court, court administrator, or the judge advocate general who will administer the lawyer's oath or affirmation; and the statute or court rule authorizing that person to administer an oath or affirmation.

c. If the supreme court grants the petition, the office of professional regulation shall forward all required documents to the applicant. The applicant will be deemed admitted to the Iowa bar on the date the completed documents are filed with the office of professional regulation.

d. The applicant must take the lawyer's oath or affirmation from an Iowa justice, or file the completed paperwork from an out-of-state oath or affirmation, within six months after the date the application for admission on motion is granted or the application will be deemed to be denied.

[Court Order July 2, 1975; December 30, 1982; December 30, 1983; April 23, 1985; November 8, 1985; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 115); November 9, 2001, effective February 15, 2002; May 31, 2006; October 31, 2006; February 14, 2008, effective April 1, 2008; October 15, 2008; January 19, 2010; December 10, 2012; October 15, 2015]

Rule 31.14 Admission pro hac vice before Iowa courts and administrative agencies.

31.14(1) Definitions.

a. An "out-of-state" lawyer is a person who:

(1) Is not admitted to practice law in this state but who is admitted in another state or territory of the United States or of the District of Columbia, or is licensed to practice as a foreign legal consultant in any state or territory of the United States or of the District of Columbia; and

(2) Is not disbarred or suspended from practice in any jurisdiction.

b. An out-of-state lawyer is "eligible" for admission pro hac vice if any of the following conditions are satisfied:

(1) The lawyer lawfully practices solely on behalf of the lawyer's employer and its commonly owned organizational affiliates, regardless of where such lawyer may reside or work.

(2) The lawyer neither resides nor is regularly employed at an office in this state.

(3) The lawyer resides in this state but (i) lawfully practices from offices in one or more other states and (ii) practices no more than temporarily in this state, whether pursuant to admission pro hac vice or in other lawful ways.

c. An "in-state" lawyer is a person admitted to practice law in this state and is not disbarred or suspended from practice in this state.

d. A "client" is a person or entity for whom the out-of-state lawyer has rendered services or by whom the lawyer has been retained prior to the lawyer's performance of services in this state.

e. "This state" refers to Iowa. This rule does not govern proceedings before a federal court or federal agency located in this state unless that body adopts or incorporates this rule.

31.14(2) *Authority of court or agency to permit appearance by out-of-state lawyer.*

a. *Court proceeding.* A court of this state may, in its discretion, admit an eligible out-of-state lawyer, who is retained to appear as attorney of record in a particular proceeding, only if the out-of-state lawyer appears with an in-state lawyer in that proceeding.

b. *Administrative agency proceeding.* If practice before an agency of this state is limited to lawyers, the agency may, using the same standards and procedures as a court, admit an eligible out-of-state lawyer who has been retained to appear in a particular agency proceeding as counsel in that proceeding pro hac vice, only if the out-of-state lawyer appears with an in-state lawyer in that proceeding.

c. *Subsequent proceedings.* Admission pro hac vice is limited to the particular court or agency proceeding for which admission was granted. An out-of-state lawyer must separately seek admission pro hac vice in any subsequent district or appellate court proceeding.

31.14(3) *In-state lawyer's duties.* When an out-of-state lawyer appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the in-state lawyer, or in an advisory or consultative role, the in-state lawyer who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the in-state lawyer to do all of the following:

a. Appear of record together with the out-of-state lawyer in the proceeding.

b. Actively participate in the proceeding. *See* Iowa R. of Prof'l Conduct 32:5.5(c)(1).

c. Accept service on behalf of the out-of-state lawyer as required by Iowa Code section 602.10111.

d. Advise the client of the in-state lawyer's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the out-of-state lawyer.

31.14(4) *Application procedure.* An eligible out-of-state lawyer seeking to appear in a proceeding pending in this state as counsel pro hac vice shall file a verified application with the court or agency where the litigation is filed. The out-of-state lawyer shall serve the application on all parties who have appeared in the proceeding, and shall include proof of service. Application forms for admission pro hac vice can be found in rule 31.25.

31.14(5) *Required information for application.* An application filed by the out-of-state lawyer must contain all of the following information:

a. The out-of-state lawyer's residence and business addresses.

b. The name, address, and phone number of each client sought to be represented.

c. The courts before which the out-of-state lawyer has been admitted to practice and the respective period of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.

d. Whether the out-of-state lawyer has been denied admission pro hac vice in this state. If so, specify the caption of the proceedings, the date of the denial, and what findings were made.

e. Whether the out-of-state lawyer has had admission pro hac vice revoked in this state. If so, specify the caption of the proceedings, the date of the revocation, and what findings were made.

f. Whether the out-of-state lawyer has been denied admission in any jurisdiction for reasons other than failure of a bar examination. If so, specify the jurisdiction, caption of the proceedings, the date of the denial, and what findings were made.

g. Whether the out-of-state lawyer has been formally disciplined or sanctioned by any court in this state. If so, specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings.

h. Whether the out-of-state lawyer has been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the out-of-state lawyer engaged in the unauthorized practice of law in this state or elsewhere. If so, specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings.

i. Whether any formal, written disciplinary proceeding has been brought against the out-of-state lawyer by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years, and as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings.

j. Whether the out-of-state lawyer has been placed on probation by a disciplinary authority in any other jurisdiction. If so, specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made.

k. Whether the out-of-state lawyer has been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders, and, if so: the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. A copy of the written order or transcript of the oral rulings shall be attached to the application.

l. The name and address of each court or agency and a full identification of each proceeding in which the out-of-state lawyer has filed an application to appear pro hac vice in this state within the preceding two years, the date of each application, and the outcome of the application.

m. An averment as to the out-of-state lawyer's familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court or agency before which the out-of-state lawyer seeks to practice.

n. The name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the out-of-state lawyer's pro hac vice request.

o. An acknowledgement that service upon the in-state lawyer in all matters connected with the proceedings has the same effect as if personally made upon the out-of-state lawyer.

p. If the out-of-state lawyer has appeared pro hac vice in this state in five proceedings within the preceding two years, the application shall contain a statement showing good cause why the out-of-state attorney should be admitted in the present proceeding.

q. Any other information the out-of-state lawyer deems necessary to support the application for admission pro hac vice.

r. A statement that the out-of-state lawyer has registered with the office of professional regulation and paid the fee as required by rule 31.14(11).

31.14(6) *Objection to application.* A party to the proceeding may file an objection to the application or seek the court's or agency's imposition of conditions to its being granted. The objecting party must file with its objection a verified affidavit containing or describing information establishing a factual basis for the objection. The objecting party may seek denial of the application or modification of it. If the application has already been granted, the objecting party may move that the pro hac vice admission be revoked.

31.14(7) *Standard for admission.* The courts and agencies of this state have discretion as to whether to grant applications for admission pro hac vice. If there is no opposition, the court or agency has the discretion to grant or deny the application summarily. An application ordinarily should be granted unless the court or agency finds one of the following:

a. The admission of the out-of-state attorney pro hac vice may be detrimental to the prompt, fair, and efficient administration of justice.

b. The admission of the out-of-state attorney pro hac vice may be detrimental to legitimate interests of parties to the proceedings other than a client the out-of-state lawyer proposes to represent.

c. One or more of the clients the out-of-state lawyer proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk.

d. The out-of-state lawyer has appeared pro hac vice in this state in five proceedings within the preceding two years, unless the out-of-state lawyer can show good cause exists for admission.

31.14(8) *Revocation of admission.* Admission to appear as counsel pro hac vice in a proceeding may be revoked for any of the reasons listed in rule 31.14(7).

31.14(9) *Discipline, contempt, and sanction authority over the out-of-state lawyer.*

a. During the pendency of an application for admission pro hac vice and upon the granting of such application, an out-of-state lawyer submits to the authority of the courts of this state, the agencies of this state, and the Iowa Supreme Court Attorney Disciplinary Board for all conduct relating in any way to the proceeding in which the out-of-state lawyer seeks to appear. The out-of-state lawyer submits to these authorities for all of the lawyer's conduct (i) within the state while the proceeding is pending or (ii) arising out of or relating to the application or the proceeding. An out-of-state lawyer who has pro hac vice authority for a proceeding may be disciplined in the same manner as an in-state lawyer. *See* Iowa R. Prof'l Conduct 32:8.5.

b. The authority to which an out-of-state lawyer submits includes, but is not limited to, the enforcement of the rules of professional conduct, the rules of procedure of the Iowa Supreme Court Attorney Disciplinary Board, contempt and sanction procedures, applicable local rules, and court, agency, and board policies and procedures.

c. An out-of-state lawyer who appears before a court of this state or before an agency of this state when practice is limited to lawyers and who does not obtain admission pro hac vice is engaged in the unauthorized practice of law. *See* Iowa R. Prof'l Conduct 32:5.5 cmt. 9. If an out-of-state lawyer reasonably expects to be admitted pro hac vice, the lawyer may provide legal services that are in or reasonably related to a pending or potential proceeding before a court or agency in this state. *See* Iowa R. Prof'l Conduct 32:5.5(c)(2).

31.14(10) *Familiarity with rules.* An out-of-state lawyer shall become familiar with the rules of professional conduct, the rules of procedure of the Iowa Supreme Court Attorney Disciplinary Board, the standards for professional conduct, local court or agency rules, and the policies and procedures of the court or agency before which the out-of-state lawyer seeks to practice.

31.14(11) *Periodic fee.* An applicant for admission to appear pro hac vice in any Iowa Court or before any Iowa agency must first register with the office of professional regulation and pay a fee of \$250 to the client security trust fund. The office of professional regulation may prescribe an electronic format for the registration and require submission of the registration and payment in that form.

a. Registration and payment of the fee required by this rule qualifies the out-of-state lawyer to file applications for admission pro hac vice in any Iowa court or before any Iowa agency for a period of five years commencing with the date of registration. Upon expiration of the five-year period, the out-of-state lawyer becomes ineligible to file an application for admission pro hac vice in any Iowa court or before any Iowa agency without first registering and paying another fee as required by this rule.

b. An out-of-state lawyer admitted pro hac vice after registration and payment of the fee as required by this rule who later is fully admitted to the bar of Iowa must pay initial, special, and regular assessments to the client security trust fund as required by rule 39.6.

[Court Order July 2, 1975; June 22, 1976; December 2, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 116); April 1, 1999; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; September 27, 2006; March 15, 2007; June 3, 2009; February 19, 2016, effective January 1, 2017]

Rule 31.15 Permitted practice by law students and recent graduates.

31.15(1) Law students enrolled in a reputable law school as defined by rule 31.8 and Iowa Code section 602.10102 and certified to the office of professional regulation by the dean of the school to have completed satisfactorily not less than the equivalent of three semesters of the work required by the school to qualify for the J.D. or LL.B. degree, may, under the following conditions, engage in the practice of law or appear as counsel in the trial or appellate courts of this state.

a. Appearance by students as defense counsel in a criminal matter in any trial court shall be confined to misdemeanors, and the student shall be under the direct supervision of licensed Iowa counsel who shall be personally present.

b. Appearance by students in matters before the Iowa Supreme Court or the Iowa Court of Appeals shall be under the direct supervision of licensed Iowa counsel who shall be personally present. A student presenting an oral argument before the supreme court or the court of appeals shall file with the clerk of the supreme court an appearance with proof of compliance with rule 31.15(1). The appearance must be filed no less than seven days prior to the argument and shall be served upon all counsel of record and parties not represented by counsel.

c. Appearance or assistance by students in other matters shall be under the general supervision of licensed Iowa counsel, but such counsel need not be personally present in court unless required by order of the court.

31.15(2) Students who the dean of a reputable law school certifies have completed not less than the equivalent of two semesters of work required to qualify for the J.D. or LL.B. degree may appear in a representative capacity in a contested case proceeding before an administrative agency.

a. Appearance by students who have completed only two semesters of work shall be under the direct supervision of licensed Iowa counsel who shall be personally present.

b. Students who have completed at least three semesters may appear in a representative capacity in a contested case proceeding before an administrative agency under the general supervision of licensed Iowa counsel, but such counsel need not be personally present unless required by order of the tribunal.

31.15(3) Except as allowed by rule 31.15(4), students may not engage in the practice of law or appear as counsel in any court of this state or before an administrative agency unless such practice or appearance is part of an educational program approved by the faculty of the students' law school and not disapproved by the Iowa Supreme Court, and such program is supervised by at least one member of the law school's faculty. Students may continue to practice before courts or administrative agencies of this state after completion of an educational program so long as the placement is substantially the same as it was during the educational program, approved by the law school, and performed with the supervision required under rule 31.15(1) and 31.15(2).

31.15(4) Law students may assist licensed Iowa counsel to the same extent as a non-attorney without being part of an educational program or being certified to the office of professional regulation, but the students shall be under the general supervision of licensed Iowa counsel who need not be personally present. Law students may not appear in representative capacities in contested case proceedings before administrative agencies without complying with rule 31.15(2) and 31.15(3), or before trial or appellate courts without complying with rule 31.15(1).

31.15(5) Law students shall not receive compensation other than general compensation from an employer-attorney or from a law-school-administered fund.

31.15(6) Graduates of reputable law schools who have applied to take the Iowa bar examination are authorized to perform all activities described in this rule on behalf of the public defender's office, the attorney general's office, county attorney offices, or approved legal aid organizations under the following conditions:

a. Supervision of graduates shall be the same as supervision of law students under rule 31.15(1) and 31.15(2), but graduates do not need to meet the requirements of rule 31.15(3).

b. Graduates may perform under this rule beginning with the receipt of a law school dean's certification of graduation and terminating either upon the withdrawal or denial of their application to take the Iowa bar examination, their failure of the next administration of the Iowa bar examination, or upon the date of the admissions ceremony for those who pass that examination.

c. Graduates may practice up to 25 hours per week from receipt of a J.D. or LL.B. degree until the administration of the next Iowa bar examination.

d. Graduates are not limited in hours of practice under this rule from administration of the bar exam until the date the bar exam results are posted for those who fail or the date of the admissions ceremony for those who pass.

e. Graduates who have failed any state bar examination in the past are not eligible to practice under this provision.

f. The supervising organizations listed in rule 31.15(6) shall file a certificate with the Office of Professional Regulation of the Iowa Supreme Court (OPR) listing the starting dates for all graduates practicing under rule 31.15(6) and shall file a second certificate indicating when the practice under this rule has terminated.

31.15(7) Approved Legal Aid Organization. For purposes of this rule, an "approved legal aid organization" includes a program sponsored by a bar association, law school, or a not-for-profit legal aid organization, approved by the Iowa Supreme Court, whose primary purpose is to provide legal representation to low-income persons in Iowa.

a. A legal aid organization seeking approval from the court for the purposes of this rule shall file a petition with OPR certifying that it is a not-for-profit organization and reciting with specificity the following:

(1) The structure of the organization and whether it accepts funds from its clients.

(2) The major sources of funds the organization uses.

(3) The criteria used to determine potential clients' eligibility for legal services the organization performs.

(4) The types of legal and nonlegal services the organization performs.

(5) The names of all members of the Iowa bar who are employed by the organization or who regularly perform legal work for the organization.

(6) The existence and extent of malpractice insurance that will cover the law student or graduate.

b. An organization designated as an approved legal aid organization under the provisions of rule 31.19(2)(c) is an approved legal aid organization for purposes of this rule.

31.15(8) A law student practicing under this rule must be identified by the title "Law Student" in any filing made in the courts of this state.

[Court Order April 4, 1967; May 15, 1972; January 14, 1974; April 8, 1975 [withdrawn]; April 9, 1975; April 8, 1980; April 28, 1987; June 5, 1996, effective July 1, 1996 (Prior to July 1, 1996, Court Rule 120); January 9, 1998, effective February 2, 1998; November 9, 2001, effective February 15, 2002; June 4, 2008, effective July 1, 2008; March 21, 2014; November 20, 2015, effective January 1, 2016; November 18, 2016, effective March 1, 2017]

Rule 31.16 Registration of house counsel.

31.16(1) *Who must register.* A lawyer who is not admitted to practice law in Iowa, but who is admitted to practice law in another United States jurisdiction or is a foreign lawyer, and who has a continuous presence in this jurisdiction and is employed as a lawyer by an organization as permitted pursuant to Rule 32:5.5(d)(1) of the Iowa Rules of Professional Conduct, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services, must register as house counsel within 90 days of the commencement of employment as a lawyer or, if currently so employed, then within 90 days of the effective date of this rule. For purposes of rule 31.16:

a. "United States jurisdiction" includes the District of Columbia and any state, territory, or commonwealth of the United States.

b. A "domestic lawyer" is a lawyer admitted to practice law in the District of Columbia or in any state, territory, or commonwealth of the United States.

c. A "foreign jurisdiction" is any jurisdiction that is not a United States jurisdiction.

d. A "foreign lawyer" is a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority.

31.16(2) *Procedure for registering.* The lawyer must submit to the Office of Professional Regulation of the Supreme Court of Iowa the following:

a. If a domestic lawyer, a completed application in the form the office of professional regulation prescribes.

b. If a foreign lawyer, a foreign-licensed attorney application with the National Conference of Bar Examiners through its online character and fitness application process. The applicant must pay the investigative fee that the National Conference of Bar Examiners requires at the time of filing the application.

c. A nonrefundable application fee in the amount of \$500 payable to the Iowa board of law examiners.

d. A \$200 client security assessment payable to the Client Security Commission.

e. Documents proving admission to practice law and current good standing in all jurisdictions, United States and foreign, in which the lawyer is admitted to practice law.

f. A certificate from the disciplinary authority of each jurisdiction of admission, United States and foreign, stating that the lawyer has not been suspended, disbarred, or disciplined and that no charges of professional misconduct are pending; or a certificate that identifies any suspensions, disbarments, or other disciplinary sanctions that have been imposed upon the lawyer, and any pending charges, complaints, or grievances.

g. If the jurisdiction is foreign and the documents are not in English, the lawyer must submit an English translation and satisfactory proof of the accuracy of the translation.

h. An affidavit from an officer, director, or general counsel of the employing entity attesting as follows:

(1) The entity will be employing the lawyer.

(2) To the best of its knowledge the lawyer has been lawfully admitted to practice and is a lawyer in good standing in another United States or foreign jurisdiction.

(3) To the best of its knowledge the lawyer has not been disbarred or suspended from practice in any jurisdiction, United States or foreign, and has never been convicted of a felony.

(4) While serving as counsel, the lawyer will perform legal services solely for the corporation, association, or other business, educational, or governmental entity, including its subsidiaries and affiliates.

(5) While serving as counsel, the lawyer will not provide personal legal services to the entity's officers or employees, except regarding matters directly related to their work for the entity and only to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct. Foreign lawyers may not provide any legal services to the entity's officers or employees.

(6) The corporation, association, or other business, educational, or governmental entity is not engaged in the practice of law or provision of legal services.

(7) The entity will promptly notify the Client Security Commission of the termination of the lawyer's employment.

i. Any other document the supreme court requires to be submitted.

31.16(3) *Scope of authority of registered lawyer.*

a. A lawyer registered under this rule has the rights and privileges otherwise applicable to members of the bar of this state with the following restrictions:

(1) The registered lawyer is authorized to provide legal services to the entity client or its organizational affiliates, including entities that control, are controlled by, or are under common control with the employer, and, except for foreign lawyers, to employees, officers, and directors of such entities, but only on matters directly related to their work for the entity and only to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct.

(2) The registered lawyer may not:

1. Except as otherwise permitted by the rules of this state, appear before a court or any other tribunal as defined in rule 32:1.0(m) of the Iowa Rules of Professional Conduct. Registration under this rule does not authorize a lawyer to provide services to the employing entity for which pro hac vice admission is required. A lawyer registered under this rule must therefore comply with the requirements for pro hac vice admission under rule 31.14 for any appearances before a court or any administrative agency.

2. Offer or provide legal services or advice to any person other than as described in rule 31.16(3)(a)(1), or hold himself or herself out as being authorized to practice law in this state other than as described in rule 31.16(3)(a)(1).

3. If a foreign lawyer, provide advice on the law of this state or another United States jurisdiction or of the United States except on the basis of advice from a lawyer who is duly licensed and authorized to provide such advice.

b. Notwithstanding the provisions of rule 31.16(3)(a), a lawyer registered under this rule is authorized to provide pro bono legal services through an established not-for-profit bar association, pro bono program or legal services program, or through such organization(s) specifically authorized in this state. This provision does not apply to foreign lawyers registered under this rule.

c. A lawyer registered under this rule must:

(1) File an annual statement and pay the annual disciplinary fee as Iowa Court Rules 39.5 and 39.8 require.

(2) Fulfill the continuing legal education attendance, reporting, and fee payment requirements set forth in rules 41.3 and 41.4. However, a lawyer is not required to comply with the continuing legal education attendance requirements set forth in rule 41.3 for the calendar year in which the lawyer first registered as house counsel under this rule.

(3) Report to the office of professional regulation within 90 days the following:

1. Termination of the lawyer's employment as described in rule 31.16(2)(h);

2. Whether or not public, any change in the lawyer's license status in another jurisdiction, United States or foreign; and

3. Whether or not public, any disciplinary charge, finding, or sanction concerning the lawyer by any disciplinary authority, court, or other tribunal in any jurisdiction, United States or foreign.

31.16(4) *Local discipline.* A registered lawyer under this section is subject to the Iowa Rules of Professional Conduct and all other laws and rules governing lawyers admitted to the active practice of law in this state. The Iowa Supreme Court Attorney Disciplinary Board has and will retain jurisdiction

over the registered lawyer with respect to the conduct of the lawyer in this state or another jurisdiction to the same extent as it has over lawyers generally admitted in this jurisdiction.

31.16(5) *Automatic termination.* A registered lawyer's rights and privileges under this rule automatically terminate when:

- a. The lawyer's employment terminates;
- b. The lawyer is suspended or disbarred from practice in any jurisdiction, United States or foreign, or any court or agency before which the lawyer is admitted; or
- c. The lawyer no longer maintains active status in at least one jurisdiction, United States or foreign.

31.16(6) *Reinstatement.* A registered lawyer whose registration is terminated under rule 31.16(5)(a) above may be reinstated within 180 days of termination upon submission to the office of professional regulation all of the following:

- a. An application for reinstatement in a form the office of professional regulation prescribes.
- b. A reinstatement fee in the amount of \$100.
- c. An affidavit from the current employing entity as prescribed in rule 31.16(2)(h).

31.16(7) *Sanctions.* A lawyer under this rule who fails to register will be:

- a. Subject to professional discipline in this state.
- b. Ineligible for admission on motion in this state.
- c. Referred by the office of professional regulation to the Iowa Supreme Court Attorney Disciplinary Board.
- d. Referred by the office of professional regulation to the disciplinary authority of the jurisdictions of licensure, United States or foreign.

31.16(8) *Court's discretion.* The supreme court has the discretion to grant or deny an application or to revoke a registration. The court may procure the character investigation services of the National Conference of Bar Examiners, at the lawyer's expense, in any matter in which substantial questions regarding the lawyer's character or fitness to practice law are implicated. The character investigation services will be procured for all foreign lawyer applicants at the applicants' expense. The director of the office of professional regulation must issue a certificate of registration upon the supreme court's approval of the application.

31.16(9) *Duration of registration—credit toward admission on motion.*

a. *Domestic lawyer.* A domestic lawyer may practice law in Iowa under this registration provision for a period of up to five years. If the lawyer intends to continue practicing law in Iowa, the lawyer must, prior to the expiration of the five-year period, apply for admission on motion. *See* Iowa Ct. R. 31.12. The filing of the application within the five-year period extends the registration period until the lawyer is admitted or the application is denied. The period of time the lawyer practices law in Iowa under the registration provisions of this rule may be used to satisfy the duration-of-practice requirement under rule 31.12(3)(a).

b. *Foreign lawyer.* A foreign lawyer registered under this rule is not subject to the five-year limit on house counsel practice and may remain in that status subject to rule 31.16(5), withdrawal of the registration, or admission following successful completion of the Iowa bar examination. The foreign lawyer is not eligible for admission on motion based on practice while registered in Iowa. The foreign lawyer may either remain as house counsel or may attempt to establish academic equivalency allowing the lawyer to sit for the Iowa bar examination. A foreign lawyer seeking to take the bar examination must:

(1) Obtain a scaled score of at least 80 on the Multistate Professional Responsibility Examination (MPRE) before seeking permission to take the bar examination. The MPRE score must be from an examination taken within three years immediately preceding the filing date of the application.

(2) Provide an affidavit giving a detailed description of the lawyer's practice while registered as house counsel and an estimate of how many hours per year the lawyer engaged in the practice of law during that period.

(3) Provide an affidavit from an officer, partner, director, or general counsel of the employing entity attesting that the foreign lawyer's affidavit is accurate and that the foreign lawyer possesses the character and fitness to practice law in Iowa.

(4) Submit the lawyer's credentials to an ABA-approved law school in this state for a recommendation of what schedule of courses, if any, would render the applicant educationally qualified to sit for the examination. The foreign lawyer may then petition the court to approve the proposed course of study. If the court approves the petition, the foreign lawyer must attach to the bar application a copy of the law school dean's affidavit stating the foreign lawyer successfully

completed the approved course of study and is believed to be educationally qualified to sit for the examination. The foreign lawyer will be allowed to sit for the examination provided all other requirements are met.

31.16(10) *Lawyers registered under prior version of this rule.* A lawyer registered under the prior version of this rule is not required to register again or pay the registration fee. The adoption of this rule does not affect any existing five-year period for terminating registration as house counsel and applying for admission on motion. That date will run from the date of the lawyer's registration as house counsel. All other provisions of this rule apply.

31.16(11) *Denial of application or suspension of registration for failure to comply with an obligation owed to or collected by the centralized collection unit of the Iowa Department of Revenue.* The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with an obligation owed to or collected by the centralized collection unit of the Iowa Department of Revenue. Rule 31.9(7) governs this procedure.

31.16(12) *Denial of application or suspension of registration for failure to comply with an obligation owed to or collected by the College Student Aid Commission.* The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with an obligation owed to or collected by the College Student Aid Commission. Rule 31.9(6) governs this procedure.

31.16(13) *Denial of application or suspension of registration for failure to comply with a support order.* The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with a support order. Rule 31.9(5) governs this procedure.

[Court Orders April 20, 2005, and July 1, 2005, effective July 1, 2005; September 1, 2005; June 16, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; September 12, 2012; August 21, 2013; May 18, 2015, effective July 1, 2015]

Rule 31.17 Provision of legal services following determination of major disaster.

31.17(1) *Determination of existence of major disaster.* Solely for purposes of this rule, this court shall determine when an emergency affecting the justice system, as a result of a natural or other major disaster, has occurred in:

a. This state and whether the emergency caused by the major disaster affects the entirety or only a part of the state, or

b. Another jurisdiction but only after such a determination and its geographical scope have been made by the highest court of that jurisdiction. The authority to engage in the temporary practice of law in this state pursuant to rule 31.17(3) shall extend only to lawyers who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services.

31.17(2) *Temporary practice—pro bono services.* Following the determination of an emergency affecting the justice system in this state pursuant to rule 31.17(1), or a determination that persons displaced by a major disaster in another jurisdiction and residing in this state are in need of pro bono services and the assistance of lawyers from outside of this state is required to help provide such assistance, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this state on a temporary basis. Such legal services must be provided on a pro bono basis without compensation, expectation of compensation or other direct or indirect pecuniary gain to the lawyer. Such legal services shall be assigned and supervised through an established not-for-profit bar association, pro bono program or legal services program or through such organization(s) specifically designated by this court.

31.17(3) *Temporary practice—legal services arising out of and reasonably related to a lawyer's practice of law in another jurisdiction, or area of such other jurisdiction, where the disaster occurred.* Following the determination of a major disaster in another United States jurisdiction, a lawyer who is authorized to practice law and who principally practices in that affected jurisdiction, and who is not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this state on a temporary basis. Those legal services must arise out of and be reasonably related to that lawyer's practice of law in the jurisdiction, or area of such other jurisdiction, where the major disaster occurred.

31.17(4) *Duration of authority for temporary practice.* The authority to practice law in this state granted by rule 31.17(2) shall end when this court determines that the conditions caused by the major

disaster have ended except that a lawyer then representing clients in this state pursuant to rule 31.17(2) is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation, but the lawyer shall not thereafter accept new clients. The authority to practice law in this state granted by rule 31.17(3) shall end 60 days after this court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.

31.17(5) Court appearances. The authority granted by this rule does not include appearances in court except:

- a. Pursuant to this court's pro hac vice admission rule; or
- b. If this court, in any determination made under rule 31.17(1), grants blanket permission to appear in all or designated courts of this state to lawyers providing legal services pursuant to rule 31.17(2).

31.17(6) Disciplinary authority and registration requirement. Lawyers providing legal services in this state pursuant to rule 31.17(2) or (3) are subject to this court's disciplinary authority and the Iowa Rules of Professional Conduct as provided in Iowa R. of Prof'l Conduct 8.5. Lawyers providing legal services in this state under rule 31.17(2) or (3) shall, within 30 days from the commencement of the provision of legal services, file a registration statement with the office of professional regulation. A form for the registration statement can be found in rule 31.25. Any lawyer who provides legal services pursuant to this rule shall not be considered to be engaged in the unlawful practice of law in this state.

31.17(7) Notification to clients. Lawyers authorized to practice law in another United States jurisdiction who provide legal services pursuant to this rule shall inform clients in this state of the jurisdiction in which they are authorized to practice law, any limits of that authorization, and that they are not authorized to practice law in this state except as permitted by this rule. They shall not state or imply to any person that they are otherwise authorized to practice law in this state.

The comment accompanying this rule explains and illustrates the meaning and purpose of the rule. The comment is intended as a guide to interpretation, but the text of the rule is authoritative.

COMMENT

[1] A major disaster in this state or another jurisdiction may cause an emergency affecting the justice system with respect to the provision of legal services for a sustained period of time interfering with the ability of lawyers admitted and practicing in the affected jurisdiction to continue to represent clients until the disaster has ended. When this happens, lawyers from the affected jurisdiction may need to provide legal services to their clients, on a temporary basis, from an office outside their home jurisdiction. In addition, lawyers in an unaffected jurisdiction may be willing to serve residents of the affected jurisdiction who have unmet legal needs as a result of the disaster or, though independent of the disaster, whose legal needs temporarily are unmet because of disruption to the practices of local lawyers. Lawyers from unaffected jurisdictions may offer to provide these legal services either by traveling to the affected jurisdiction or from their own offices or both, provided the legal services are provided on a pro bono basis through an authorized not-for-profit entity or such other organization(s) specifically designated by this court. A major disaster includes, for example, a hurricane, earthquake, flood, wildfire, tornado, public health emergency or an event caused by terrorists or acts of war.

[2] Under rule 31.17(1)(a), this court shall determine whether a major disaster causing an emergency affecting the justice system has occurred in this state, or in a part of this state, for purposes of triggering rule 31.17(2). This court may, for example, determine that the entirety of this state has suffered a disruption in the provision of legal services or that only certain areas have suffered such an event. The authority granted by rule 31.17(2) shall extend only to lawyers authorized to practice law and not disbarred, suspended from practice or otherwise restricted from practice in any other manner in any other jurisdiction.

[3] Rule 31.17(2) permits lawyers authorized to practice law in another jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practicing law in any other manner in any other jurisdiction, to provide pro bono legal services to residents of this state following a determination of an emergency caused by a major disaster; notwithstanding that they are not otherwise authorized to practice law in this state. Other restrictions on a lawyer's license to practice law that would prohibit that lawyer from providing legal services pursuant to this rule include, but are not limited to, probation, inactive status, disability inactive status or a non-disciplinary administrative suspension for failure to complete continuing legal education or other requirements. Lawyers on probation may be subject to monitoring and specific limitations on their practices. Lawyers on inactive status, despite being characterized in many jurisdictions as being "in good standing," and lawyers on disability inactive status are not permitted to practice law. Public protection warrants exclusion of these lawyers from the authority to provide legal services as defined in this rule. Lawyers permitted to provide legal services pursuant to this rule must do so without fee or other compensation, or expectation thereof. Their service must be provided through an established not-for-profit organization that is authorized to provide legal services either in its own name or that provides representation of clients through employed or cooperating lawyers. Alternatively, this court may instead designate other specific organization(s) through which these legal services may be rendered. Under rule 31.17(2), an emeritus lawyer from another United States jurisdiction may provide pro bono legal services on a temporary basis in this state provided that the emeritus lawyer is authorized to provide pro bono legal services in that jurisdiction pursuant to that jurisdiction's emeritus or pro bono practice rule. Lawyers may also be authorized to provide legal services in this state on a temporary basis under Iowa R. of Prof'l Conduct 32:5.5(c).

[4] Lawyers authorized to practice law in another jurisdiction, who principally practice in the area of such other jurisdiction determined by this court to have suffered a major disaster, and whose practices are disrupted by a major disaster there, and who are not disbarred, suspended from practice or otherwise restricted from practicing law in any other manner in any other jurisdiction, are authorized under rule 31.17(3) to provide legal services on a temporary basis in this state. Those legal services must arise out of and be reasonably related to the lawyer's practice of law in the affected jurisdiction. For purposes of this rule, the determination of a major disaster in another jurisdiction should first be made by the highest court of appellate jurisdiction in that jurisdiction. For the meaning of "arise out of and reasonably related to," see Iowa R. of Prof'l Conduct 32:5.5, cmt. [14].

[5] Emergency conditions created by major disasters end, and when they do, the authority created by rules 31.17(2) and (3) also ends with appropriate notice to enable lawyers to plan and to complete pending legal matters. Under rule 31.17(4), this court determines when those conditions end only for purposes of this rule. The authority granted under rule 31.17(2) shall end upon such determination except that lawyers assisting residents of this state under rule 31.17(2) may continue to do so for such longer period as is reasonably necessary to complete the representation. The authority created by rule 31.17(3) will end 60 days after this court makes such a determination with regard to an affected jurisdiction.

[6] Rules 31.17(2) and (3) do not authorize lawyers to appear in the courts of this state. Court appearances are subject to the pro hac vice admission rules of this court. This court may, in a determination made under rule 31.17(5)(b), include authorization for lawyers who provide legal services in this state under rule 31.17(2) to appear in all or designated courts of this state without need for such pro hac vice admission. A lawyer who has appeared in the courts of this state pursuant to rule 31.17(5) may continue to appear in any such matter notwithstanding a declaration under rule 31.17(4) that the conditions created by major disaster have ended. Furthermore, withdrawal from a court appearance is subject to Iowa R. of Prof'l Conduct 32:1.16.

[7] Authorization to practice law as a foreign legal consultant or in-house counsel in a United States jurisdiction offers lawyers a limited scope of permitted practice and may therefore restrict that person's ability to provide legal services under this rule.

[8] The ABA National Lawyer Regulatory Data Bank is available to help determine whether any lawyer seeking to practice in this state pursuant to rule 31.17(2) or (3) is disbarred, suspended from practice or otherwise subject to a public disciplinary sanction that would restrict the lawyer's ability to practice law in any other jurisdiction.

[Court Order May 14, 2007; February 14, 2008, effective April 1, 2008]

Rule 31.18 Licensing and practice of foreign legal consultants.

31.18(1) *General regulation as to licensing.* In its discretion, the supreme court may license to practice in the State of Iowa as a foreign legal consultant, without examination, an applicant who:

a. Is, and for at least five years has been, a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;

b. For at least five years preceding his or her application has been a member in good standing of such legal profession and has been lawfully engaged in the practice of law in the foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the foreign country;

c. Possesses the good moral character and general fitness requisite for a member of the bar of this state; and

d. Intends to practice as a foreign legal consultant in this state and to maintain an office in this state for that purpose.

31.18(2) *Application and fee.*

a. The applicant shall file an application for a foreign legal consultant license with the National Conference of Bar Examiners through their online character and fitness application process at <http://www.ncbex.org/ea>, unless an exception is granted by the Office of Professional Regulation. The applicant shall pay the investigative fee required by the National Conference of Bar Examiners at the time of filing the application.

b. In addition, the applicant shall file the following documents and fee with the Office of Professional Regulation:

(1) A certificate from the professional body or public authority having final jurisdiction over professional discipline in the foreign country in which the applicant is admitted, certifying the applicant's admission to practice, date of admission, and good standing as a lawyer or counselor at law or the equivalent, and certifying that the applicant has not been disciplined and no charges of professional misconduct are pending, or identifying any disciplinary sanctions that have been imposed upon the applicant or any pending charges, complaints, or grievances;

(2) A letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction in the foreign country in which the applicant is admitted;

(3) Duly authenticated English translations of the certificate required by rule 31.18(2)(b)(1) and the letter required by rule 31.18(2)(b)(2) if they are not in English;

(4) The requisite documentation establishing the applicant's compliance with the immigration laws of the United States;

(5) Other evidence as the supreme court may require regarding the applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of rule 31.18(1); and

(6) An administrative fee of \$500 payable to the Office of Professional Regulation at the time the application is filed.

31.18(3) *Scope of practice.* A person licensed to practice as a foreign legal consultant under this rule may render legal services in this state, but shall not be considered admitted to practice law here, or in any way hold himself or herself out as a member of the bar of this state, or do any of the following:

a. Appear as a lawyer on behalf of another person in any court, or before any magistrate or other judicial officer, in this state (except when admitted pro hac vice pursuant to Iowa Ct. R. 31.14);

b. Prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;

c. Prepare:

(1) Any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or

(2) Any instrument relating to the administration of a decedent's estate in the United States of America;

d. Prepare any instrument in respect of the marital or parental relations, rights, or duties of a resident of the United States of America, or the custody or care of the children of such a resident;

e. Render professional legal advice on the law of this state or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise);

f. Carry on a practice under, or utilize in connection with such practice, any name, title, or designation other than one or more of the following:

(1) The foreign legal consultant's own name;

(2) The name of the law firm with which the foreign legal consultant is affiliated;

(3) The foreign legal consultant's authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of that country; and

(4) The title "foreign legal consultant," which may be used in conjunction with the words "admitted to the practice of law in [name of the foreign country of his or her admission to practice]."

31.18(4) *Rights and obligations.* Subject to the limitations listed in rule 31.18(3), a person licensed under this rule shall be considered a foreign legal consultant affiliated with the bar of this state and shall be entitled and subject to:

a. The rights and obligations set forth in the Iowa Rules of Professional Conduct or arising from the other conditions and requirements that apply to a member of the bar of this state under the Iowa Court Rules; and

b. The rights and obligations of a member of the bar of this state with respect to:

(1) Affiliation in the same law firm with one or more members of the bar of this state, including by:

1. Employing one or more members of the bar of this state;

2. Being employed by one or more members of the bar of this state or by any partnership [or professional corporation] that includes members of the bar of this state or that maintains an office in this state; and

3. Being a partner in any partnership [or shareholder in any professional corporation] that includes members of the bar of this state or that maintains an office in this state; and

(2) Attorney-client privilege, work-product privilege, and similar professional privileges.

31.18(5) *Discipline.* A person licensed to practice as a foreign legal consultant under this rule shall be subject to professional discipline in the same manner and to the same extent as members of the bar of this state. To this end:

a. Every person licensed to practice as a foreign legal consultant under this rule:

(1) Shall be subject to the jurisdiction of the supreme court and the Iowa Supreme Court Attorney Disciplinary Board and to reprimand, suspension, removal, or revocation of his or her license to practice by the supreme court and shall otherwise be governed by the Iowa Rules of Professional Conduct and the Iowa Court Rules; and

(2) Shall execute and file with the clerk of the supreme court, in the form and manner as the court may prescribe:

1. A commitment to observe the Iowa Rules of Professional Conduct and the Iowa Court Rules to the extent applicable to the legal services authorized under rule 31.18(3);

2. A written undertaking to notify the court of any change in the foreign legal consultant's good standing as a member of the foreign legal profession referred to in rule 31.18(1)(a) and of any final

action of the professional body or public authority referred to in rule 31.18(2)(b)(1) imposing any disciplinary reprimand, suspension, or other sanction upon the foreign legal consultant; and

3. A duly acknowledged instrument in writing, providing the foreign legal consultant's address in this state and designating the clerk of the supreme court as his or her agent for service of process. The foreign legal consultant shall keep the Office of Professional Regulation advised in writing of any changes of address in this jurisdiction. In any action or proceeding brought against the foreign legal consultant and arising out of or based upon any legal services rendered or offered to be rendered by the foreign legal consultant within this state or to residents of this state, service shall first be attempted upon the foreign legal consultant at the most recent address filed with the clerk. Whenever after due diligence service cannot be made upon the foreign legal consultant at that address, service may be made upon the clerk. Service made upon the clerk in accordance with this provision is effective as if service had been made personally upon the foreign legal consultant.

b. Service of process on the clerk under rule 31.18(5)(a)(2)“3” shall be made by personally delivering to the clerk's office, and leaving with the clerk, or with a deputy or assistant authorized by the clerk to receive service, duplicate copies of the process. The clerk shall promptly send one copy of the process to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to the foreign legal consultant at the most recent address provided in accordance with rule 31.18(5)(a)(2)“3.”

31.18(6) Required fees and annual statements. A person licensed as a foreign legal consultant shall pay a \$200 registration fee to the Client Security Commission. The person licensed under this rule shall file an annual statement and pay the annual disciplinary fee as required by Iowa Ct. Rs. 39.5 and 39.8.

31.18(7) Revocation of license. If the supreme court determines that a person licensed as a foreign legal consultant under this rule no longer meets the requirements for licensure set forth in rule 31.18(1)(a) or (b), it shall revoke the foreign legal consultant's license.

31.18(8) Admission to bar. If a person licensed as a foreign legal consultant under this rule is subsequently admitted as a member of the bar of this state under the rules governing admission, that person's foreign legal consultant license shall be deemed superseded by the license to practice law as a member of the bar of this state.

[Court Order June 3, 2009; January 19, 2010; August 21, 2013]

Rule 31.19 Certification and pro bono participation of emeritus attorneys.

31.19(1) Purpose. The following rule establishes the emeritus attorneys pro bono participation program.

31.19(2) Definitions.

a. *Emeritus attorney.* An “emeritus attorney” is any person who is admitted to practice law in Iowa and is on inactive, active, or retired status at the time of application, or who is or was admitted to practice law before the highest court of any other state or territory of the United States or the District of Columbia, and:

- (1) Does not have a pending disciplinary proceeding;
- (2) Has never been disbarred or had a license to practice law revoked in any jurisdiction;
- (3) Agrees to abide by the Iowa Rules of Professional Conduct and submit to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance Commission for disciplinary purposes;
- (4) Neither requests nor accepts compensation of any kind for the legal services to be rendered under this chapter; and
- (5) Is certified under this rule.

b. *Active.* For purposes of this rule, “active” describes lawyers with the status of corporate, full-time, part-time, government, judge, or military service for purposes of the Client Security Commission.

c. *Approved legal aid organization.* For purposes of this rule, an “approved legal aid organization” shall include a program sponsored by a bar association, law school, or a not-for-profit legal aid organization, approved by the Iowa Supreme Court, whose primary purpose is to provide legal representation to low-income persons in Iowa. A legal aid organization seeking approval from the court for the purposes of this rule shall file a petition with the Office of Professional Regulation certifying that it is a not-for-profit organization and reciting with specificity:

- (1) The structure of the organization and whether it accepts funds from its clients;
- (2) The major sources of funds the organization uses;

(3) The criteria used to determine potential clients' eligibility for legal services the organization performs;

(4) The types of legal and nonlegal services the organization performs;

(5) The names of all members of the Iowa bar the organization employs or who regularly perform legal work for the organization;

(6) The existence and extent of malpractice insurance that will cover the emeritus attorney;

(7) The number of attorneys on the organization's board of directors; and

(8) The availability of in-house continuing legal education.

31.19(3) Activities.

a. Permissible activities. An emeritus attorney, in association with an approved legal aid organization, may perform the following activities:

(1) The emeritus attorney may appear in any court or before any administrative tribunal in this state on behalf of a client of an approved legal aid organization.

(2) The emeritus attorney may prepare pleadings and other documents to be filed in any court or before any administrative tribunal in this state in any matter in which the emeritus attorney is involved. Such pleadings shall include the attorney's status as emeritus attorney and the name of the approved legal aid organization, except as permitted by Iowa Rule of Civil Procedure 1.423.

(3) The emeritus attorney may provide advice, screening, transactional, and other activities for clients of approved legal aid organizations.

b. Determination of nature of participation. The presiding judge or hearing officer may, in the judge's or officer's discretion, determine the extent of the emeritus attorney's participation in any proceedings before the court.

31.19(4) Supervision and limitations.

a. Supervision by attorney. An emeritus attorney must perform all activities authorized by this chapter under the general supervision of the approved legal aid organization.

b. Representation of status. Attorneys permitted to perform services under this chapter may only hold themselves out as emeritus attorneys.

c. Payment of expenses and award of fees. The prohibition against compensation for the emeritus attorney contained in rule 31.19(2)(a)(4) shall not prevent the approved legal aid organization from reimbursing the emeritus attorney for actual expenses incurred while rendering services under this chapter or from paying continuing legal education attendance fees on behalf of the emeritus attorneys, nor shall it prevent the approved legal aid organization from making such charges for its services as it may otherwise properly charge. The approved legal aid organization shall be entitled to receive all court-awarded attorneys' fees for any representation rendered by the emeritus attorney.

31.19(5) Certification. Permission for an emeritus attorney to perform services under this chapter shall become effective upon filing with and approval by the Office of Professional Regulation of:

a. A certification from an approved legal aid organization stating that the emeritus attorney is currently associated with that legal aid organization and that all activities of the emeritus attorney will be under the general supervision of the legal aid organization;

b. A certificate from the highest court or agency in the state, territory, or district in which the emeritus attorney previously has been licensed to practice law, certifying that the emeritus attorney is in good standing, does not have a pending disciplinary proceeding, and has never been disbarred or had the license to practice law revoked; and

c. A sworn statement from the emeritus attorney that the emeritus attorney:

(1) Relinquishes status as an inactive, active, or retired lawyer and requests placement in emeritus status for purposes of the Client Security Commission and Commission on Continuing Legal Education;

(2) Understands and will abide by the provisions of the Iowa Rules of Professional Conduct;

(3) Submits to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance Commission for disciplinary purposes; and

(4) Will neither request nor accept compensation of any kind for the legal services authorized under this chapter.

31.19(6) Withdrawal of certification.

a. Withdrawal of permission to perform services. Permission to perform services under this chapter shall cease immediately upon the filing with the office of professional regulation of a notice either:

(1) From the approved legal aid organization stating that the emeritus attorney has ceased to be associated with the organization, which notice must be filed within 30 days after such association has ceased; or

(2) From the Iowa Supreme Court, in its discretion, at any time, stating that permission to perform services under this chapter has been revoked. A copy of such notice shall be mailed by the office of professional regulation to the emeritus attorney involved and to the approved legal aid organization.

b. Notice of withdrawal. If an emeritus attorney's certification is withdrawn for any reason, the approved legal aid organization shall immediately file a notice of such action in the official file of each matter pending before any court or tribunal in which the emeritus attorney was involved.

31.19(7) Discipline. In addition to any appropriate proceedings and discipline that may be imposed upon the emeritus attorney by the Iowa Supreme Court under the court's disciplinary rules, the Iowa Rules of Professional Conduct, or the Code of Iowa, the Iowa Supreme Court may, at any time, with or without cause, withdraw certification under this rule.

31.19(8) Fees and annual statements.

a. Annual report to Client Security Commission. A lawyer certified under this rule shall file the annual questionnaire required by Iowa Ct. R. 39.11 and the annual statement required by Iowa Ct. R. 39.8(1), but shall be exempt from the annual disciplinary fee and fund assessment provided in Iowa Ct. Rs. 39.5 and 39.6.

b. Annual Report to Commission on Continuing Legal Education. A lawyer certified under this rule shall fulfill the continuing legal education attendance, reporting, and fee payment requirements set forth in Iowa Ct. Rs. 41.3 and 41.4. However, a lawyer shall not be required to comply with the continuing legal education requirements set forth in Iowa Ct. R. 41.3 for the calendar year in which the lawyer is first certified under this rule. The approved legal aid organization may pay the continuing legal education reporting fee on behalf of the emeritus attorney.

[Court Order March 1, 2013]

Rules 31.20 to 31.24 Reserved.

Rule 31.25 Forms.**Rule 31.25 — Form 1: Application for Admission Pro Hac Vice—District Court**

Iowa District Court for _____ County <i>County where your case is filed</i>	
Plaintiff(s) <i>Full name: first, middle, last</i> vs. Defendant(s) <i>Full name: first, middle, last</i>	Application for Admission Pro Hac Vice--District Court Iowa Court Rule 31.14

1. Application

The undersigned seeks permission to appear pro hac vice in the above-captioned proceeding.

Applicant must complete all of the following:

If this matter involves review of an agency action, did the applicant seek admission pro hac vice in the proceedings below? ☐ Yes ☐ No

If yes, attach copies of all related documents.

a. Applicant's full name, residential address, email address, and business address.

<i>Full name: first, middle, last</i>	<i>Email address</i>		
<i>Mailing address</i>	<i>City</i>	<i>State</i>	<i>ZIP code</i>
<i>Business address</i>	<i>City</i>	<i>State</i>	<i>ZIP code</i>

b. The name, address, and telephone number of each client to be represented.**c. The courts before which the applicant has been admitted to practice and the respective periods of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.****d. Has the applicant ever been denied admission pro hac vice in this state?**

☐ Yes ☐ No

Rule 31.25—Form 1: *Application for Admission Pro Hac Vice--District Court*, continued

If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

- e. Has the applicant ever had admission pro hac vice revoked in this state?

☐ Yes ☐ No

If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

- f. Has the applicant ever been denied admission in any jurisdiction for reasons other than failure of a bar examination? ☐ Yes ☐ No

If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

- g. Has the applicant ever been formally disciplined or sanctioned by any court in this state? ☐ Yes ☐ No

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

- h. Has the applicant ever been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the applicant engaged in the unauthorized practice of law in this state or elsewhere? ☐ Yes ☐ No

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

- i. Has any formal, written disciplinary proceeding ever been brought against the applicant by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years? ☐ Yes ☐ No

If yes, on a separate page specify as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings. Attach copies of all related documents.

- j. Has the applicant ever been placed on probation by a disciplinary authority in any other jurisdiction? ☐ Yes ☐ No

If yes, on a separate page specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made. Attach copies of all related documents.

- k. Has the applicant ever been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to the court's rules or orders? ☐ Yes ☐ No

If yes, on a separate page specify the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. Attach to this application a copy of the written order or a transcript of the oral ruling and other related documents.

- l. Has the applicant filed an application to appear pro hac vice in this state within the preceding two years? ☐ Yes ☐ No

Rule 31.25—Form 1: *Application for Admission Pro Hac Vice--District Court*, continued

If yes, on a separate page list the name and address of each court or agency and a full identification of each proceeding in which an application was filed, including the date and outcome of the application. Attach copies of all related documents.

- m. The applicant acknowledges familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court before which the applicant seeks to practice. ☐ Yes ☐ No
- n. List the name, address, telephone number, email address, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the applicant's pro hac vice request.

Lawyer's name

PIN

Email address

Lawyer's address

City

State

ZIP code

- o. The applicant acknowledges that service upon the in-state attorney in all matters connected with the proceedings will have the same effect as if personally made upon the applicant. ☐ Yes ☐ No
- p. If the applicant has appeared pro hac vice in this state in five proceedings within the preceding two years, the applicant must, on a separate attached page, provide a statement showing good cause why the applicant should be admitted in the present proceeding.
- q. On a separate attached page the applicant must provide any other information the applicant deems necessary to support the application for admission pro hac vice.
- r. Has the applicant registered with the office of professional regulation and paid the fee as required by Iowa Court Rule 31.14(11) within five years of the date of this application? ☐ Yes ☐ No

Lawyer's Oath and Signature and Certificate of Service on next page

Rule 31.25—Form 1: *Application for Admission Pro Hac Vice—District Court*, continued**2. Oath and Signature**

I, _____, have read this Application, and I certify under
Print your name

penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

_____, 20_____
*Signed on: Month Day Year Your signature**

Mailing address City State ZIP code

(_____) _____
Telephone number Email address Additional email address, if applicable

** If filing in paper, you must handwrite your signature on this form. If filing electronically, you may handwrite your signature on the form, scan the form, and then file it electronically, or, you may affix a digitized signature and file the form electronically.*

Certificate of Service

The undersigned certifies a copy of this application was served on the following parties:

on the _____ day of _____, 20_____
Month Year

by ☐ Personal delivery ☐ Deposit in the U.S. mail

Signature of server

Rule 31.25 — Form 2: Application for Admission Pro Hac Vice—Iowa Supreme Court

In the Iowa Supreme Court	
Plaintiff(s) <i>Full name: first, middle, last</i> vs. Defendant(s) <i>Full name: first, middle, last</i>	Application for Admission Pro Hac Vice—Iowa Supreme Court Iowa Court Rule 31.14

1. Application

The undersigned seeks permission to appear pro hac vice in the above-captioned proceeding.
Applicant shall complete all of the following:

Did the applicant seek admission pro hac vice in the proceedings below? ☐ Yes ☐ No

If yes, attach copies of all related documents.

a. Applicant's full name, residential address, email address, and business address.

Full name: first, middle, last

Email address

Mailing address

City

State

ZIP code

Business address

City

State

ZIP code

b. The name, address, and phone number of each client sought to be represented.**c. The courts before which the applicant has been admitted to practice and the respective periods of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.****d. Has the applicant ever been denied admission pro hac vice in this state?**

☐ Yes ☐ No

If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

e. Has the applicant ever had admission pro hac vice revoked in this state?

☐ Yes ☐ No

Rule 31.25—Form 2: *Application for Admission Pro Hac Vice--Iowa Supreme Court*, continued

If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

- f. Has the applicant ever been denied admission in any jurisdiction for reasons other than failure of a bar examination? ☐ Yes ☐ No

If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

- g. Has the applicant ever been formally disciplined or sanctioned by any court in this state? ☐ Yes ☐ No

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

- h. Has the applicant ever been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the applicant engaged in the unauthorized practice of law in this state or elsewhere? ☐ Yes ☐ No

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

- i. Has any formal, written disciplinary proceeding ever been brought against the applicant by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years? ☐ Yes ☐ No

If yes, on a separate page specify as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings. Attach copies of all related documents.

- j. Has the applicant ever been placed on probation by a disciplinary authority in any other jurisdiction? ☐ Yes ☐ No

If yes, on a separate page specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made. Attach copies of all related documents.

- k. Has the applicant ever been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to the court's rules or orders? ☐ Yes ☐ No

If yes, on a separate page specify the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. Attach to this application a copy of the written order or a transcript of the oral ruling and other related documents.

- l. Has the applicant filed an application to appear pro hac vice in this state within the preceding two years? ☐ Yes ☐ No

If yes, on a separate page list the name and address of each court or agency and a full identification of each proceeding in which an application was filed, including the date and outcome of the application. Attach copies of all related documents.

- m. The applicant acknowledges familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court before which the applicant seeks to practice. ☐ Yes ☐ No

Rule 31.25—Form 2: *Application for Admission Pro Hac Vice--Iowa Supreme Court*, continued

- n. List the name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the applicant's pro hac vice request.

<i>Lawyer's name</i>	<i>PIN</i>	<i>Email address</i>	
<i>Lawyer's address</i>	<i>City</i>	<i>State</i>	<i>ZIP code</i>

- o. The applicant acknowledges that service upon the in-state lawyer in all matters connected with the proceedings will have the same effect as if personally made upon the applicant. ☐ Yes ☐ No
- p. If the applicant has appeared pro hac vice in this state in five proceedings within the preceding two years, the applicant must, on a separate page, provide a statement showing good cause why the applicant should be admitted in the present proceeding.
- q. On a separate attached page, the applicant must provide any other information the applicant deems necessary to support the application for admission pro hac vice.
- r. Has the applicant registered with the office of professional regulation and paid the fee as required by Iowa Court Rule 31.14(11) within five years of the date of this application? ☐ Yes ☐ No

2. Oath and Signature

I, _____, have read this Application, and I certify under
Print your name

penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

<i>Signed on: Month Day Year</i>			<i>Your signature*</i>
<i>Mailing address</i>		<i>City</i>	<i>State ZIP code</i>
<i>() </i>	<i>Telephone number</i>	<i>Email address</i>	<i>Additional email address, if applicable</i>

**If filing in paper, you must handwrite your signature on this form. If filing electronically, you may handwrite your signature on the form, scan the form, and then file it electronically, or, you may affix a digitized signature and file the form electronically.*

Certificate of Service on next page

Rule 31.25—Form 2: *Application for Admission Pro Hac Vice--Iowa Supreme Court*, continued**Certificate of Service**

The undersigned certifies a copy of this application was served on the following parties

on the _____ day of _____, 20____

*Month**Year*

by ☐ Personal delivery ☐ Deposit in the U.S. mail

Signature of server

Rule 31.25 — Form 3: Registration Statement for Lawyer Engaging in Temporary Practice Following Determination of Major Disaster

In the Iowa Supreme Court

**Registration Statement for Lawyer
Engaging in Temporary Practice
Following Determination of Major
Disaster**
Iowa Court Rule 31.17

Pursuant to Iowa Court Rule 31.17(6) the undersigned must complete the following:

1. Name

Lawyer's full name: first, middle, last

Name of Lawyer's firm

2. Home state information

Residential address in lawyer's home state:

Business address in lawyer's home state:

Telephone numbers in lawyer's home state:

Email addresses:

3. Iowa information

Residential address in Iowa:

Business address in Iowa:

Telephone numbers in Iowa:

Email addresses:

Rule 31.25—Form 3: *Registration Statement for Lawyer Engaging in Temporary Practice Following Determination of Major Disaster*, continued

4. Bar admission

List the courts before which you have been admitted to practice, the respective periods of admission, and your registration or bar numbers.

Is your license to practice currently subject to disbarment, suspension, or restrictions in any jurisdiction? ☐ Yes ☐ No

If yes, on a separate page specify the proceedings and attach copies of all related documents.

5. Temporary Practice Following Determination of Major Disaster

Specify whether you will engage in temporary practice pursuant to:

Check all that apply

- ☐ Iowa Court Rule 31.17(2) (pro bono legal services).
- ☐ Iowa Court Rule 31.17(3) (legal services reasonably related to lawyer's practice of law in the other jurisdiction, or area of such other jurisdiction, where the disaster occurred).

I agree that I am subject to the disciplinary procedures and authority of this court and the Iowa Rules of Professional Conduct, the Standards for Professional Conduct, and any applicable local rules and procedures. ☐ Yes ☐ No

Oath and Signature

I, _____, have read this Registration Statement, and
Print your name

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct and that I am licensed and in good standing and authorized to practice law in each jurisdiction listed above and my license is not subject to suspension or restriction in any jurisdiction.

_____, 20____
 Signed on: Month Day Year Your signature*

 Mailing address City State ZIP code

(_____) _____
 Telephone number Email address Additional email address, if applicable

**If filing in paper, you must handwrite your signature on this form. If filing electronically, you may handwrite your signature on the form, scan the form, and then file it electronically, or, you may affix a digitized signature and file the form electronically.*