

SMALL CLAIMS

631.1 Small claims.

1. The following actions or claims are small claims and shall be commenced, heard and determined as provided in this chapter:

A civil action for a money judgment where the amount in controversy is four thousand dollars or less for actions commenced before July 1, 2002, and five thousand dollars or less for actions commenced on or after July 1, 2002, exclusive of interest and costs.

2. The district court sitting in small claims shall have concurrent jurisdiction of an action for forcible entry and detainer which is based on those grounds set forth in section 648.1, subsections 1, 2, 3 and 5. When commenced under this chapter, the action shall be a small claim for the purposes of this chapter.

3. The district court sitting in small claims has concurrent jurisdiction of an action of replevin if the value of the property claimed is four thousand dollars or less for actions commenced before July 1, 2002, and five thousand dollars or less for actions commenced on or after July 1, 2002. When commenced under this chapter, the action is a small claim for the purposes of this chapter.

4. The district court sitting in small claims has concurrent jurisdiction of motions and orders relating to executions against personal property, including garnishments, where the value of the property or garnisheed money involved is four thousand dollars or less for actions commenced before July 1, 2002, and five thousand dollars or less for actions commenced on or after July 1, 2002.

5. The district court sitting in small claims has concurrent jurisdiction of an action for abandonment of a manufactured or mobile home or personal property pursuant to section 555B.3, if no money judgment in excess of four thousand dollars is sought for actions commenced before July 1, 2002, and five thousand dollars or less for actions commenced on or after July 1, 2002. If commenced under this chapter, the action is a small claim for the purposes of this chapter.

6. The district court sitting in small claims has concurrent jurisdiction of an action to challenge a mechanic's lien pursuant to sections 572.24 and 572.32.

7. The district court sitting in small claims has concurrent jurisdiction of an action for the collection of taxes brought by a county treasurer pursuant to sections 445.3 and 445.4 where the amount in controversy is five thousand dollars or less for actions commenced on or after July 1, 2003, exclusive of interest and costs.

[C73, 75, 77, 79, 81, § 631.1]

83 Acts, ch 63, § 1, 5; 86 Acts, ch 1077, § 1; 90 Acts, ch 1038, § 1; 93 Acts, ch 154, §18; 94 Acts, ch 1117, §1; 95 Acts, ch 49, §23; 99 Acts, ch 79, §5; 2001 Acts, ch 153, §15; 2001 Acts, ch 176, §80; 2002 Acts, ch 1087, §1, 2; 2003 Acts, ch 178, §20

Jurisdictional amount to revert to \$4,000 if a proper court declares the \$5,000 amount unconstitutional; 2002 Acts, ch 1087, §3

Jurisdictional amount to revert to \$2,000 if a proper court declares the previous \$3,000 or \$4,000 jurisdictional amounts unconstitutional; 94 Acts, ch 1117, §2; 95 Acts, ch 49, §28

631.2 Jurisdiction and procedures.

1. The district court sitting in small claims shall exercise the jurisdiction conferred by this chapter, and shall

determine small claims according to the statutes and the rules prescribed by this chapter. Except when transferred from the small claims docket as provided in section 631.8, small claims may be tried by a judicial magistrate, a district associate judge, or a district judge.

2. The clerk of the district court shall maintain a separate small claims docket which shall contain all matters relating to small claims which are required by section 602.8104, subsection 2, paragraph "e", to be contained in a combination docket.

3. Statutes and rules relating to venue and jurisdiction shall apply to small claims, except that a provision of this chapter which is inconsistent therewith shall supersede that statute or rule.

[C73, § 631.2, 631.3; C75, 77, 79, 81, § 631.2]

83 Acts, ch 101, § 124; 83 Acts, ch 186, § 10116, 10201

631.3 Commencement of actions clerk to furnish forms subpoena.

1. All actions shall be commenced by the filing of an original notice with the clerk. At the time of filing, the clerk shall enter on the original notice and the copies to be served, the file number and the date the action is filed.

2. The clerk shall furnish standard forms as provided in section 631.15, as such pleadings may be required. The clerk may furnish information to any party to enable the party to complete a form.

3. The clerk shall cause to be entered upon each copy of the original notice and in the docket the time within which the defendant is required to appear, which time shall be determined in accordance with section 631.4.

4. Upon the request of a party to the action, the clerk or a judicial officer shall issue subpoenas for the attendance of witnesses at a hearing. Sections 622.63 to 622.67, 622.69, 622.76 and 622.77 apply to subpoenas issued pursuant to this chapter.

[C73, § 631.3, 631.5; C75, 77, 79, 81, § 631.3]

83 Acts, ch 186, § 10117, 10201; 84 Acts, ch 1322, § 1

631.4 Service time for appearance.

The manner of service of original notice and the times for appearance shall be as provided in this section.

1. *Actions for money judgment or replevin.* In an action for money judgment or an action of replevin the clerk shall cause service to be obtained as follows, and the defendant is required to appear within the period of time specified:

a. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 1.306, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall mail to the defendant by certified mail, restricted delivery, return receipt to the clerk requested, a copy of the original notice together with a conforming copy of an answer form. The defendant is required to appear within twenty days following the date service is made.

b. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 1.306, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall cause a copy of the original notice and a

conforming copy of an answer form to be delivered to a peace officer or other person for personal service as provided in rule of civil procedure 1.302(5), 1.305, or 1.306. The defendant is required to appear within twenty days following the date service is made.

c. If the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 1.306, the plaintiff may elect service in any other manner that is approved by the court as provided in that rule, and the defendant is required to appear within sixty days after the date of service.

d. If the defendant is a nonresident of this state and is subject to the jurisdiction of the court under section 617.3, the plaintiff may elect that service be made as provided in that section. The clerk shall collect the prescribed fees and costs, and shall cause duplicate copies of the original notice to be filed with the secretary of state and shall cause a copy of the original notice and a conforming copy of an answer form to be mailed to the defendant in the manner prescribed in section 617.3. The defendant is required to appear within sixty days from the date of filing with the secretary of state.

2. Actions for forcible entry and detainer.

a. In an action for forcible entry and detainer under chapter 648, the clerk shall set a date, time and place for hearing, and shall cause service as provided in this subsection.

b. Original notice shall be served personally upon each defendant as provided in rule of civil procedure 1.305, which service shall be made at least three days prior to the date set for hearing. Upon receipt of the prescribed costs the clerk shall cause the original notice to be delivered to a peace officer or other person for service upon each defendant.

c. If personal service cannot be made upon each defendant, as provided in rule of civil procedure 1.305, the plaintiff may elect to post, after at least two attempts to perfect service upon each defendant, one or more copies of the original notice upon the real property being detained by each defendant at least three days prior to the date set for hearing. The attempts to perfect personal service may be made on the same day. In addition to posting, the plaintiff shall also mail, by certified mail, to each defendant, at the place held out by each defendant as the place for receipt of such communications or, in the absence of such designation, at each defendant's last known place of residence, a copy of the original notice at least three days prior to the date set for hearing. Under this paragraph, service shall be deemed complete upon each defendant by the filing with the clerk of the district court of one or more affidavits indicating that a copy of the original notice was both posted and mailed to each defendant as provided in this paragraph, whether or not the defendant signs a receipt for the notice.

d. If personal service cannot be made upon each defendant in an action for forcible entry and detainer joined with an action for rent or recovery pursuant to section 648.19, service may be made pursuant to paragraph "*c*"

3. Actions for abandonment of manufactured or mobile homes or personal property pursuant to chapter 555B.

a. In an action for abandonment of a manufactured or mobile home or personal property, the clerk shall set a date, time, and place for hearing, and shall cause service to be made as provided in this subsection.

b. Original notice shall be served personally on each defendant as provided in section 555B.4.

[C73, § 631.3631.5; C75, 77, 79, 81, § 631.4]

84 Acts, ch 1322, § 2; 86 Acts, ch 1077, § 2; 93 Acts, ch 154, §19, 20; 95 Acts, ch 125, §13; 96 Acts, ch 1203, § 7; 99 Acts, ch 155, §13, 14; 2001 Acts, ch 153, §15; 2001 Acts, ch 176, §80; 2004 Acts, ch 1101, §85

631.5 Appearance default.

This section applies to all small claims except actions for forcible entry and detainer pursuant to chapter 648 and actions for abandonment of mobile homes or personal property pursuant to chapter 555B.

1. *Appearance.* A defendant may appear in person or by attorney, and by the denial of a claim a defendant does not waive any defenses.
2. *Hearing set.* If all defendants either have entered a timely appearance or have defaulted, the clerk shall assign a contested claim to the small claims calendar for hearing at a place and time certain. The time of hearing shall be not less than five days nor more than twenty days after the latest timely appearance, unless otherwise ordered by the court. The clerk shall transmit the original notice and all other papers relating to the case to the judicial officer to whom the case is assigned, and copies of all papers so transmitted shall be retained in the clerk's office.
3. *Partial service.* If the plaintiff has joined more than one defendant, and less than all defendants are served with notice as determined by subsection 4, the plaintiff may elect to proceed against all defendants served or may elect to have a continuance, issuable by the clerk, to a date certain not more than sixty days thereafter. If the plaintiff elects to proceed, the action shall be dismissed without prejudice as against each defendant not served with notice.
4. *Return of service.* Proper notice shall be established by a signed return receipt or a return of service as provided in rule of civil procedure 1.308.
5. *Notification to parties.* When a small claim is set for hearing the clerk immediately shall notify by ordinary mail each party or the attorney representing the party, and the judicial officer to whom the action is assigned, of the date, time and place of hearing.
6. *Default.* If a defendant fails to appear and the clerk in accordance with subsection 4 determines that proper notice has been given, judgment shall be rendered against the defendant by the clerk if the relief is readily ascertainable. If the relief is not readily ascertainable the claim shall be assigned to a judicial magistrate for determination.

[C75, 77, 79, 81, § 631.5]

84 Acts, ch 1322, § 3, 4; 93 Acts, ch 154, §21; 2003 Acts, ch 151, §49; 2004 Acts, ch 1101, §86

631.6 Fees and costs.

1. The clerk of the district court shall collect the following fees and costs in small claims actions, which shall be paid in advance and assessed as costs in the action:
 - a. Fees for filing and docketing shall be fifty dollars.
 - b. Fees for service of notice on nonresidents are as provided in section 617.3.
 - c. Postage charged for the mailing of original notice shall be eight dollars.
 - d. Fees for personal service by peace officers or other officials of the state are the amounts specified by law.
2. The amounts collected for filing and docketing shall be distributed as provided in section 602.8108.

[C73, § 631.5, 631.6; C75, 77, 79, 81, § 631.6; 81 Acts, ch 189, § 5, 7]

83 Acts, ch 63, § 2, 3, 4; 83 Acts, ch 101, § 125; 83 Acts, ch 186, § 10118, 10201; 85 Acts, ch 195, §59; 85 Acts, ch 197, §37, 38; 88 Acts, ch 1258, §2; 89 Acts, ch 83, §84; 91 Acts, ch 116, §18; 91 Acts, ch 218, § 26; 91 Acts, ch 219, §34; 94 Acts, ch 1074, §10; 2002 Acts, ch 1126, §3; 2003 Acts, ch 151, §50

631.7 Parties, pleadings and motions.

1. Except as specifically provided in this chapter, there shall be no written pleadings or motions unless the court in the interests of justice permits them, in which event they shall be similar in form to the original notice.
2. Motions, except a motion under rule of civil procedure 1.246, shall be heard only at the time set for a hearing on the merits.
3. Except as provided in section 631.8, subsection 4, a counterclaim, cross-petition or intervention shall be in writing and in the form promulgated under section 631.15. Copies shall be submitted for each party appearing, and shall be mailed by ordinary mail to those parties by the clerk. A cross-petition against persons not a party to the action shall be made pursuant to rule of civil procedure 1.246 and the new party shall be served with notice as provided in this chapter.
4. The rules of civil procedure pertaining to actions, joinder of actions, parties and intervention shall apply to small claims actions, except that rule of civil procedure 1.241 shall not apply. No counterclaim is necessary to assert an offset arising out of the subject matter of the plaintiff's claim. A counterclaim, cross-petition, or intervention against an existing party is deemed denied and no responsive pleading by such party is required.

[C73, § 631.7, 631.8; C75, 77, 79, 81, § 631.7]

631.8 Procedure.

1. Small claims not determined within ninety days following the expiration of any period of continuance or following the last entry placed on the record for that action shall be dismissed by the clerk without prejudice.
2. In small claims actions, if a party joins a small claim with one which is not a small claim, the court shall:
 - a. Order the small claim to be heard under this chapter and dismiss the other claim without prejudice, or
 - b. As to parties who have appeared or are existing parties, either (1) order the small claim to be heard under this chapter and the other claim to be tried by regular procedure or (2) order both claims to be tried by regular procedure.
3. If commenced as a regular civil action or under the statutes relating to probate proceedings, a small claim shall be transferred to the small claims docket. A small claim commenced as a regular action shall not be dismissed but shall be transferred to the small claims docket. Civil and probate actions not small claims but commenced hereunder shall be dismissed without prejudice except for defendants who have appeared, as to whom such actions shall be transferred to the combination or probate docket, as appropriate.
4. In small claims actions, a counterclaim, cross claim, or intervention in a greater amount than that of a small claim shall be in the form of a regular pleading. A copy shall be filed for each existing party. New parties, when permitted by order, may be brought in under rule of civil procedure 1.246 and shall be given notice under the rules of civil procedure pertaining to commencement of actions. The court shall either order such counterclaim, cross claim, or intervention to be tried by regular procedure and the other claim to be heard under this division, or order the entire action to be tried by regular procedure.
5. In regular action, when a party joins a small claim with one which is not a small claim, regular procedure

shall apply to both unless the court transfers the small claim to the small claims docket for hearing under this division.

6. In regular actions, a counterclaim, cross claim, or intervention in the amount of a small claim shall be pleaded, tried, and determined by regular procedure, unless the court transfers the small claim to the small claims docket for hearing under this division.

7. Pleadings which are not in correct form under this section shall be ordered amended so as to be in correct form; but a small claim which is proceeding under this chapter need not be amended although in the form of a regular pleading.

8. Copies of any papers filed by the parties which are not required to be served, shall be mailed or delivered by the clerk as provided in rule of civil procedure 1.442.

[C73, § 631.2, 631.8; C75, 77, 79, 81, § 631.8]

631.9 Jurisdiction determined.

At the time set for the hearing of a small claim, the court first shall determine that proper notice as provided in section 631.5, subsection 4, has been given a party before proceeding further as to that party, unless the party has appeared or is an existing party, and also shall determine that the action is properly brought as a small claim.

[C73, 75, 77, 79, 81, § 631.9]

631.10 Failure to appear effect.

Unless good cause to the contrary is shown, if the parties fail to appear at the time of hearing the claim shall be dismissed without prejudice by the court; if the plaintiff fails to appear but the defendant appears, the claim shall be dismissed with prejudice by the court with costs assessed to the plaintiff; and if the plaintiff appears but the defendant fails to appear, judgment may be rendered against the defendant by the court. The filing by the plaintiff of a verified account, or an instrument in writing for the payment of money with an affidavit the same is genuine, shall constitute an appearance by plaintiff for the purpose of this section.

[C73, 75, 77, 79, 81, § 631.10]

631.11 Hearing.

1. *Informality.* The hearing shall be to the court, shall be simple and informal, and shall be conducted by the court itself, without regard to technicalities of procedure.

2. *Evidence.* The court shall swear the parties and their witnesses, and examine them in such a way as to bring out the truth. The parties may participate, either personally or by attorney. The court may continue the hearing from time to time and may amend new or amended pleadings, if justice requires.

3. *Record.* Upon the trial, the judicial magistrate shall make detailed minutes of the testimony of each witness and append the exhibits or copies thereof to the record. The proceedings upon trial shall not be reported by a certified court reporter, unless the party provides the reporter at such party's expense. The magistrate, in the magistrate's discretion, may cause the proceedings upon trial to be reported electronically. If the proceedings are being electronically recorded both parties shall be notified in advance of that recording. If the proceedings have been reported electronically the recording shall be retained under the jurisdiction of the magistrate unless appealed, and upon appeal shall be transcribed only by a person designated by the court under the supervision of the magistrate.

4. *Judgment.* Judgment shall be rendered, based upon applicable law and upon a preponderance of the evidence.

5. *Destruction of recordings.* Unless an appeal is taken, an electronic recording of a proceeding in small claims shall be retained until the time for appeal has expired as specified in section 631.13. Thereafter, the magistrate may direct that the recording tape or other device be erased and used for subsequent recordings. If the proceeding is appealed, the recording may be erased following entry of judgment by the district judge hearing the appeal.

[C73, 75, 77, 79, 81, § 631.11]

631.12 Entry of judgment setting aside default judgment.

The clerk shall immediately enter the judgment in the small claims docket and district court lien book, without recording. Such relief shall be granted as is appropriate. Upon entering judgment, the court may provide for installment payments to be made directly by the party obligated to the party entitled thereto; and in such event execution shall not issue as long as such payments are made but execution shall issue for the full unpaid balance of the judgment upon the filing of an affidavit of default. When entered on the small claims docket and district court lien book, a small claims judgment shall constitute a lien to the same extent as regular judgments entered on the district court judgment docket and lien book; but if a small claims judgment requires installment payments, it shall not be enforceable until an affidavit of default is filed.

A defendant may move to set aside a default judgment in the manner provided for doing so in district court by rule of civil procedure 1.977.

[C73, 75, 77, 79, 81, § 631.12]

84 Acts, ch 1322, § 5; 99 Acts, ch 144, §11

631.13 Appeals.

1. *Notice.* An appeal from a judgment in small claims may be taken by any party by giving oral notice to the court at the conclusion of the hearing, or by filing a written notice of appeal with the clerk within twenty days after judgment is rendered. In either case, the appealing party shall pay to the clerk within that twenty days the usual district court docket fee to perfect the appeal. No appeal shall be taken after twenty days.

2. *Stay of judgment.* Execution of judgment shall be stayed upon the filing with the clerk of the district court an appeal bond with surety approved by the clerk, in the sum specified in the judgment.

3. *Transcript.* Within twenty days after an appeal is taken, unless extended by order of a district judge or by stipulation of the parties, any party may file with the clerk as part of the record a transcript of the official report, if any, or in the event the report was made electronically, a transcription of the recording. If a transcription of an electronic recording is filed, the record on appeal shall contain the tape or other medium on which the proceedings were preserved. A transcription of an electronic recording shall be provided any party upon request and upon payment by the party of the actual costs of transcription.

4. *Procedure on appeal.*

a. The appeal shall be promptly heard upon the record thus filed without further evidence. If the original action was tried by a district judge, the appeal shall be decided by a different district judge. If the original action was tried by a district associate judge, the appeal shall be decided by a district judge. If the original action was tried by a judicial magistrate, the appeal shall be decided by a district judge or a district associate judge. The judge shall decide the appeal without regard to technicalities or defects which have not prejudiced

the substantial rights of the parties, and may affirm, reverse, or modify the judgment, or render judgment as the judge or magistrate should have rendered.

If the record, in the opinion of the deciding judge, is inadequate for the purpose of rendering a judgment on appeal, the judge may order that additional evidence be presented relative to one or more issues, and may enter any other order which is necessary to protect the rights of the parties. The judge shall take minutes of any additional evidence, but the hearing shall not be reported by a certified court reporter.

b. Upon entry of judgment the clerk may cause any recording tape or other device contained in the record to be erased for subsequent use.

[C73, 75, 77, 79, 81, § 631.13]

84 Acts, ch 1322, § 6, 7

631.14 Representation in small claims actions.

Actions constituting small claims may be brought or defended by an individual, partnership, association, corporation, or other entity. In actions in which a person other than an individual is a party, that person may be represented by an officer or an employee. A person who in the regular course of business takes assignments of instruments or accounts pursuant to chapter 539, which assignments constitute small claims, may bring an action on an assigned instrument or account in the person's own name and need not be represented by an attorney, provided that in an action brought to recover payment on a dishonored check or draft, as defined in section 554.3104, the action is brought in the county of residence of the maker of the check or draft or in the county where the draft or check was first presented. Any person, however, may be represented in a small claims action by an attorney.

[C75, 77, 79, 81, § 631.14; 82 Acts, ch 1235, § 3]

87 Acts, ch 137, §5

631.15 Standard forms.

The supreme court shall prescribe standard forms of pleadings to be used in small claims actions. Standard forms promulgated by the supreme court shall be the exclusive forms used.

[C73, § 631.4; C75, 77, 79, 81, § 631.15]

83 Acts, ch 101, § 126

Footnotes

Forms prescribed by the supreme court are published in the compilation "Iowa Court Rules"

631.16 Discretionary review.

1. A civil action originally tried as a small claim shall not be appealed to the supreme court except by discretionary review as provided herein.

2. "*Discretionary review*" is the process by which the supreme court may exercise its discretion, in like manner as under the rules pertaining to interlocutory appeals and certiorari in civil cases, to review specified matters not subject to appeal as a matter of right. The supreme court may adopt additional rules to control

access to discretionary review.

3. The party seeking review shall be known as the appellant and the adverse party as the appellee, but the title of the action shall not be changed from that in the court below.

4. The record and case shall be presented to the appellate court as provided by the rules of appellate procedure; and the provisions of law in civil procedure relating to the filing of decisions and opinions of the appellate court shall apply in such cases.

5. The appellate court, after an examination of the entire record, may dispose of the case by affirmation, reversal or modification of the lower court judgment, and may order a new trial.

6. The decision of the appellate court with any opinion filed or judgment rendered must be recorded by the supreme court clerk. Procedendo shall be issued as provided in the rules of appellate procedure.

7. The jurisdiction of the appellate court shall cease when procedendo is issued. All proceedings for executing the judgment shall be had in the trial court or by its clerk.

[C73, § 602.71; C75, 77, 79, 81, § 631.16]

85 Acts, ch 157, §1, 2

Footnotes

Rules adopted by the supreme court are published in the compilation "Iowa Court Rules"

631.17 Prohibited practices.

1. The district court, after due notice and hearing, may bar a person from appearing on the person's own behalf in any court governed by this chapter on a cause of action purchased by or assigned for collection to that person for any of the following:

a. Falsely holding oneself out as an attorney at law.

b. Repeatedly filing claims for costs allowed under section 625.22 which have been found by the court to have been exaggerated or without merit.

c. A pattern of conduct in violation of article 7 of chapter 537.

2. A person barred pursuant to subsection 1 shall not derive any benefit, directly or indirectly, from any case brought pursuant to this chapter within the purview of the order of bar issued by the district court.

3. The district court shall dismiss any pending case based on a cause of action purchased or assigned for collection brought on the person's own behalf by a person barred pursuant to subsection 1, and shall assess the costs against that person.

4. The district court shall dismiss any case subsequently brought directly or indirectly by a person subject to a bar pursuant to subsection 1 in violation of that subsection and shall assess all costs to that person, and the court shall assess a further civil fine of one hundred dollars against that person for each such case dismissed.

5. The district court shall retain jurisdiction over a person barred pursuant to subsection 1 and may punish violations of the court's order of bar as a matter of criminal contempt.

86 Acts, ch 1238, § 25; 87 Acts, ch 98, §6