CHAPTER 619

PLEADINGS AND MOTIONS

For Iowa court rules concerning pleadings and motions, see **R.C.P. 1.401 – 1.458**
For Iowa court rules concerning discovery and inspection, see **R.C.P. 1.501 – 1.517**

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619.1 Nonnecessity for prayer.

In the defense part of an answer or reply, it shall not be necessary to make a prayer for judgment.

[R60, §2883; C73, §2658; C97, §3569; C24, 27, 31, 35, 39, §**11118;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.1]

619.2 Exception.

If the action challenges the legality, validity or constitutionality of a proposed constitutional amendment, the defendant shall plead within three days after service of the original notice.

[C31, 35, §11121-d1; C39, §**11121.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.2]

Referred to in §619.3

619.3 Exception — limit on pleading extension.

If the action challenges the legality, validity or constitutionality of a proposed constitutional amendment, the court shall not extend the time to plead more than two days beyond the time fixed in section 619.2.

[C31, 35, §11123-d1; C39, §**11123.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.3]

619.4 Taking files from office.

The original files shall be taken from the clerk's office only on order of the judge by leaving with the clerk a receipt for the same.

[C97, §3558; SS15, §3558; C24, 27, 31, 35, 39, §**11126;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.4]

619.5 Withdrawal of motion or demurrer.

A motion or demurrer once filed shall not be withdrawn without the consent of the adverse party in writing, or given in open court, or of the court.

[R60, §2870; C73, §2642; C97, §3556; C24, 27, 31, 35, 39, §**11139;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.5]

619.6 Counterclaim by comaker or surety.

A comaker or surety, when sued alone, may, with the consent of the comaker or principal, make use of by way of counterclaim of a debt or liquidated demand due from the plaintiff at the commencement of the action to such comaker or principal, but the plaintiff may meet such counterclaim in the same way as if made by the comaker or principal.

[R60, §2887; C73, §2661; C97, §3572; C24, 27, 31, 35, 39, §**11153;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.6]

619.7 Mitigating facts.

In any action brought to recover damages for an injury to person, character, or property, the defendant may set forth, in a distinct division of the defendant's answer, any facts, of which evidence is legally admissible, to mitigate or otherwise reduce the damages, whether a complete defense or justification be pleaded or not, and the defendant may give in evidence the mitigating circumstances, whether the defendant proves the defense or justification or not.

[R60, §2929; C73, §2682; C97, §3593; C24, 27, 31, 35, 39, §**11172;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.7]

619.8 Necessity to plead.

No mitigating circumstances shall be proved unless pleaded, except such as are shown by or grow out of the testimony introduced by the adverse party.

[R60, §2929; C73, §2682; C97, §3593; C24, 27, 31, 35, 39, §**11173;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.8]

619.9 Amount of proof.

A party shall not be compelled to prove more than is necessary to entitle the party to the relief asked for, or any lower degree included therein, nor more than sufficient to sustain the party's defense.

[R60, §2966; C73, §2729; C97, §3639; C24, 27, 31, 35, 39, §**11181;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.9]

619.10 Evidence under denial.

Under a denial of an allegation, no evidence shall be introduced which does not tend to negative some fact the party making the controverted allegation is bound to prove.

[R60, §2944; C73, §2704; C97, §3615; C24, 27, 31, 35, 39, §**11196;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.10]

619.11 Pleading conveyance.

When a party claims by conveyance, the party may state it according to its legal effect or name.

[R60, §2952; C73, §2723; C97, §3633; C24, 27, 31, 35, 39, §**11212;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.11]

619.12 Pleading estate.

It shall not be necessary to allege the commencement of either a particular or a superior estate, unless it be essential to the merits of the case.

[R60, §2954; C73, §2724; C97, §3634; C24, 27, 31, 35, 39, §**11213;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.12]

619.13 Injuries to goods.

In actions for injuries to goods and chattels, their kind or species shall be alleged.

[R60, §2956; C73, §2725; C97, §3635; C24, 27, 31, 35, 39, §**11214;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.13]

619.14 Injuries to real property.

In actions for injuries to real property, the petition shall describe the property, and when the injury is to an incorporeal hereditament, shall describe the property in respect of which the right is claimed, as well as the right itself, either by the numbers by which the property is designated in the national survey, or by its abuttals, or by its courses and distances, or by any name which it has acquired by reputation certain enough to identify it.

[R60, §2958; C73, §2726; C97, §3636; C24, 27, 31, 35, 39, §**11215;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.14]

619.15 Bond — breaches of.

In an action on a bond with conditions, the party suing thereon shall notice the conditions and allege the facts constituting the breaches relied on.

[C51, §1818; R60, §2960; C73, §2728; C97, §3638; C24, 27, 31, 35, 39, §**11217;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.15]

619.16 Immaterial errors disregarded.

The court, in every stage of an action, must disregard any error or defect in the proceeding which does not affect the substantial rights of the adverse party; and no judgment shall be reversed or affected by reason of such error or defect.

[R60, §2978; C73, §2690; C97, §3601; C24, 27, 31, 35, 39, §**11228;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §619.16]

Immaterial exceptions, §624.15

619.17 Contributory fault — burden.

A plaintiff does not have the burden of pleading and proving the plaintiff's freedom from contributory fault. If a defendant relies upon contributory fault of a plaintiff to diminish the amount to be awarded as compensatory damages, the defendant has the burden of pleading and proving fault of the plaintiff, if any, and that it was a proximate cause of the injury or damage. As used in this section, *"plaintiff"* includes a defendant filing a counterclaim or cross-petition, and the term *"defendant"* includes a plaintiff against whom a counterclaim or cross-petition has been filed.

[C66, 71, 73, 75, 77, 79, 81, §619.17]

84 Acts, ch 1293, §13

Comparative fault; see chapter 668

619.18 Money damages not to be stated.

In an action for personal injury or wrongful death, the amount of money damages demanded shall not be stated in the petition, original notice, or any counterclaim or cross-petition. However, a party filing the petition, original notice, counterclaim, or cross-petition shall certify to the court that the action meets applicable jurisdictional requirements for amount in controversy.

[C77, 79, 81, §619.18]

86 Acts, ch 1211, §37

619.19 Verification not required — affidavits.

1. Pleadings need not be verified unless otherwise required by statute. Where a pleading is verified, it is not necessary that subsequent pleadings be verified unless otherwise required by statute.

2. The signature of a party, the party's legal counsel, or any other person representing the party, to a motion, pleading, or other paper is a certificate that:

a. The person has read the motion, pleading, or other paper.

b. To the best of the person's knowledge, information, and belief, formed after reasonable inquiry, it is grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

c. 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.

3. 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.

4. If a motion, pleading, or other paper is signed in violation of this section, the court, upon motion or upon its own initiative, shall impose upon the person signing, the 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.

86 Acts, ch 1211, §38; 2013 Acts, ch 30, §186