

CHAPTER 332

RULES OF CIVIL PROCEDURE

In The Matter Of
The
Rules Of Civil Procedure

Report Of
The Supreme Court
Of
The State Of Iowa

To the Fifty-sixth General Assembly of the State of Iowa:

1 In accordance with sections 684.18 and 684.19, Code of Iowa, 1954,
2 the Supreme Court of Iowa has prescribed and herewith reports to
3 you rules of practice and procedure in the nature of amendments to
4 the following designated Rules of Civil Procedure heretofore pre-
5 scribed. These amendments were recommended by the court's ad-
6 visory committee on Rules of Civil Procedure.

7 **RULE 102. What Admitted**

8 Rule 102 is revised to read:

9 Every fact pleaded and not denied in a subsequent pleading as
10 permitted by these rules shall be deemed admitted except (1) alle-
11 gations of value or amount of damage, (2) allegations of a reply,
12 and (3) facts not previously pleaded that are set forth in pleadings
13 filed subsequent to the seventh day preceding the trial, all of which
14 shall be deemed denied by operation of law.

15 (Explanation: This changes present Rule 102 by providing that
16 facts set forth in pleadings filed subsequent to the seventh day
17 preceding the trial, as well as allegations of value, amount of damage
18 and a reply, are deemed denied by operation of law.)

19 **RULE 185. Consolidation**

20 Rule 185 is amended to read:

21 Unless some party shows he will be prejudiced thereby the court
22 may consolidate separate actions which involve common questions
23 of law or fact or order a single trial of any or all issues therein.
24 In such cases it may make such orders concerning the proceedings
25 as tend to avoid unnecessary cost or delay.

26 (Explanation: This changes present Rule 185 by substituting
27 "shows," fourth word in new Rule 185, for "objects, stating that."
28 Under the literal wording of the present rule a mere statement that
29 a party will be prejudiced thereby prevents a consolidation of actions
30 or single trial of issues. The new rule requires a showing, rather
31 than a mere statement, of prejudice.)

32 **RULE 294. Attorney Fees**

33 Rule 294 is amended by substituting for subsection 4 thereof the
34 following:

35 4. On all sums in excess of one thousand dollars, two per cent.
36 Provided further that in contested partition cases, plaintiff's attor-
37 ney shall receive such additional reasonable compensation as the
38 court may allow, to be taxed as part of the costs.

39 (Explanation: This changes present Rule 294 by allowing as a
40 fee in favor of plaintiff's attorney in partition cases involving real
41 estate an amount not exceeding two per cent, rather than one per

42 cent, on all sums in excess of one thousand dollars on the sale price
 43 of the real estate. The amendment also permits the allowance of
 44 additional reasonable compensation for plaintiff's attorney in con-
 45 tested real estate partition cases.)

CERTIFICATE

46 I, Charles F. Wennerstrum, do hereby certify that I am the Chief
 47 Justice of the Supreme Court of Iowa; that the foregoing amend-
 48 ments and revisions to the Rules of Civil Procedure were adopted
 49 and approved by the Supreme Court of Iowa and are herewith re-
 50 ported to the Fifty-sixth General Assembly on January 27th, 1955,
 51 pursuant to Code Section 684.18 and 684.19 of the 1954 Code of
 52 Iowa by delivering same to the Secretary of the Senate and to the
 53 Chief Clerk of the House of Representatives on said date.

THE SUPREME COURT OF IOWA
 By (S) Charles F. Wennerstrum
 Chief Justice

ATTEST:

(S) Helen M. Lyman
 Clerk of the Supreme Court of Iowa

ACKNOWLEDGEMENT

54 I, Carroll Lane, Secretary of the Senate of the State of Iowa,
 55 herewith acknowledge delivery to me on January 27, 1955 of the
 56 within report of the Supreme Court of the State of Iowa pertaining
 57 to amendments and revisions to the Rules of Civil Procedure.

(S) Carroll A. Lane
 Secretary of the Senate
 Fifty-sixth General Assembly,
 of the State of Iowa

ACKNOWLEDGEMENT

58 I, A. C. Gustafson, Chief Clerk of the House of Representatives
 59 of the State of Iowa, herewith acknowledge delivery to me on Jan-
 60 uary 27, 1955 of the within report of the Supreme Court of the State
 61 of Iowa pertaining to amendments and revisions to the Rules of
 62 Civil Procedure.

(S) A. C. Gustafson
 Chief Clerk, House of Representatives
 Fifty-sixth General Assembly,
 of the State of Iowa.

CERTIFICATE

63 I, Leo Elthon, do hereby certify that I am the President of the
 64 Senate of the Fifty-sixth General Assembly of the State of Iowa;
 65 and I, Carroll A. Lane, do hereby certify that I am the Secretary
 66 of the Senate of the Fifty-sixth General Assembly of the State of
 67 Iowa, and we do hereby jointly certify that as such President and
 68 Secretary that on the 27th day of January, 1955 the Supreme Court
 69 of the State of Iowa reported to said Senate, and filed with it, the
 70 attached and foregoing modifications, amendments, revisions and

71 additions to the Rules of Civil Procedure, heretofore reported by said
72 Supreme Court to the Fiftieth General Assembly of the State of
73 Iowa;

74 THAT the date of making said report to the Fifty-sixth General
75 Assembly was within the twenty days subsequent to the convening
76 of the regular session of the Fifty-sixth General Assembly;

77 THAT no other report pertaining to the Rules of Civil Procedure
78 was made or filed by said Supreme Court with said Senate;

79 THAT no other or different changes, modifications, amendments,
80 revisions or additions to the Rules of Civil Procedure were made or
81 enacted at such regular session of said Fifty-sixth General Assembly.

82 Signed this 29th day of April, 1955, being the last legislative day
83 of the Fifty-sixth General Assembly.

(S) Leo Elthon, President

(S) Carroll A. Lane, Secretary

SENATE

Fifty-sixth General Assembly
of the State of Iowa

CERTIFICATE

84 I, A. C. Hanson, do hereby certify that I am the Speaker of the
85 House of Representatives of the Fifty-sixth General Assembly of the
86 State of Iowa; and I, A. C. Gustafson, do hereby certify that I
87 am the Chief Clerk of the House of Representatives of the Fifty-
88 sixth General Assembly of the State of Iowa, and we do hereby
89 jointly certify that as such Speaker and Chief Clerk that on the
90 27th day of January, 1955 the Supreme Court of the State of Iowa
91 reported to said House of Representatives, and filed with it, the
92 attached and foregoing modifications, amendments, revisions and
93 additions to the Rules of Civil Procedure, heretofore reported by
94 said Supreme Court to the Fiftieth General Assembly of the State
95 of Iowa;

96 THAT the date of making said report to the Fifty-sixth General
97 Assembly was within the twenty days subsequent to the convening
98 of the regular session of the Fifty-sixth General Assembly;

99 THAT no other report pertaining to the Rules of Civil Procedure
100 was made or filed by said Supreme Court with said House of Repre-
101 sentatives;

102 THAT no other or different changes, modifications, amendments,
103 revisions or additions to the Rules of Civil Procedure were made or
104 enacted at such regular session of said Fifty-sixth General Assembly.

105 Signed this 29th day of April, 1955, being the last legislative day
106 of the Fifty-sixth General Assembly.

(S) A. C. Hanson, Speaker

(S) A. C. Gustafson, Chief Clerk

HOUSE OF REPRESENTATIVES

Fifty-sixth General Assembly
of the State of Iowa