

CHAPTER 1255
SUMMARY JUDGMENTS

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE
IN THE IOWA RULES OF CIVIL
PROCEDURE

}

REPORT OF THE
SUPREME COURT

TO: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY
COMMITTEE OF THE 1991 REGULAR SESSION OF THE SEVENTY-FOURTH
GENERAL ASSEMBLY OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.4201 and 602.4202, the Supreme Court of Iowa has prescribed and hereby reports on this date to the Chair of the Senate Judiciary Committee concerning amendments to Iowa Rules of Civil Procedure 237 and 238 as shown in the attached Exhibits "A" and "B".

Pursuant to Iowa Code section 602.4202(2), these changes are to take effect January 2, 1992.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin

ARTHUR A. MCGIVERIN, Chief Justice

Des Moines, Iowa
July 15, 1991

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the 19th day of July, 1991, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Al Sturgeon

Chair of the Senate Judiciary Committee

EXHIBIT "A"

(D) Summary judgments

237. On what claims. Summary judgment may be had under the following conditions and circumstances:

c. Motion and proceedings thereon. The motion shall be filed at least ten days before the time fixed for the hearing not less than forty-five days prior to the date the case is set for trial, unless otherwise ordered by the court. ~~The adverse party prior to the day of hearing may file opposing affidavits. Any party resisting the motion shall file within ten days from the time when a copy of the motion has been served a resistance; statement of disputed facts, if any; and memorandum of authorities supporting the resistance. If affidavits supporting the resistance are filed, they must be filed with the resistance. Notwithstanding the provisions of R.C.P. 117, the time fixed for hearing or nonoral submission shall be not less than twenty 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, R.C.P. 179 "b" shall apply.~~

EXHIBIT "B"

238. Procedure. Motions and affidavits relating to any claim under R.C.P. 237 shall be filed and copies delivered as provided in R.C.P. 82 and ~~hearing shall be had thereon as provided in R.C.P. 117.~~