The ten days shall be prorated during the calendar years a judicial officer begins and separates from judicial service. The chief justice of the supreme court may authorize exceptions to this rule.

**22.15(2)** "Quasi-judicial business" includes teaching, speaking, attending related educational programs, courses or seminars, and those duties specified in rule 22.16(5)(*b*)(8) and rule 22.16(5)(*b*)(13) but does not include time spent on other "official duties" enumerated in rule 22.16(5)(*b*), or teaching judicial branch educational programs when prior approval is obtained from the chief judge of the appropriate judicial district and chief justice of the supreme court.

[Court Order May 20, 1980; May 23, 1985, effective August 1, 1985; June 28, 1985, effective July 1, 1985; October 24, 1985, effective November 1, 1985; July 26, 1996; November 9, 2001, effective February 15, 2002; August 29, 2002]

**Rule 22.16 Preaudit travel claims of judiciary — definitions.** As used in this rule and rules 22.17 through 22.21:

**22.16(1)** *"Court employee"* or *"employee of the judicial branch"* means an officer or employee of the judicial branch except for a judicial officer or a court reporter.

**22.16(2)** *"Court reporter"* means every full-time or temporary court reporter compensated by the judicial branch pursuant to Iowa Code section 602.1502.

**22.16(3)** *"Judicial officer"* means every justice, judge, district associate judge, senior judge, associate juvenile judge, associate probate judge, judicial hospitalization referee, and magistrate, appointed to serve in the state of Iowa.

**22.16(4)** *"Official domicile"* means the following:

*a.* "Court employee's official domicile" means the city, town, or metropolitan area within which the office is located to which that court employee is assigned. Transportation costs between any such employee's permanent home and that person's office, and subsistence within the limits of an employee's official domicile are not reimbursable.

*b.* "Judicial officer and court reporter's official domicile." By December 15 of each year, the chief judge of the judicial district shall designate a courthouse as an official domicile for each judicial officer and court reporter. The official domicile of a judicial officer and a court reporter shall be the courthouse in the county in which the judge or court reporter works more than 50 percent of the time. When the judge or reporter does not work more than 50 percent of the time in the same courthouse, the judge's or reporter's official domicile shall be a courthouse designated by the chief judge. Notification of the official domicile must be filed with the state court administrator's office.

*c.* Reserved.

*d.* For purposes of this definition, the following are official domicile-defining metropolitan areas.

| Metropolitan Areas | | Inclusions |
|---|---|---|
| 1. | Cedar Rapids | 1. Hiawatha<br>Marion |
| 2. | Clinton | 2. Camanche<br>Elvira<br>Low Moor |
| 3. | Council Bluffs | 3. Bellevue<br>Bennington<br>Boys Town<br>Carter Lake<br>Elkhorn<br>Irvington<br>LaPlatte<br>LaVista<br>Millard<br>Omaha<br>Papillion<br>Ralston<br>Springfield |
| 4. | Davenport | 4. Bettendorf<br>East Moline<br>Hampton<br>Milan<br>Moline<br>Pleasant Valley<br>Riverdale<br>Rock Island<br>Silvis |
| 5. | Des Moines | 5. Polk County |
| 6. | Dubuque | 6. Asbury<br>Centralia<br>East Dubuque<br>Sageville |
| 7. | Iowa City | 7. Coralville |
| 8. | Mason City | 8. Clear Lake |
| 9. | Sioux City | 9. North Sioux City<br>Sergeant Bluff<br>South Sioux City |
| 10. | Waterloo | 10. Cedar Falls<br>Evansdale |

**22.16(5)** *"Official duties"* means the following:

*a. "Official duties"* of a court reporter or court employee are the responsibilities and functions contained in the judicial branch job description for the position the individual holds.

*b. "Official duties"* of a judicial officer are the responsibilities and functions customarily and usually pertaining to the office of judge or referee. Subject to Iowa Code section 602.1509, and this rule and rules 22.17 through 22.21, official duties include the following:

(1) Attendance at court sittings and performance of the other work of the court.

(2) Attendance at judicial conferences called under Iowa Code section 602.1203.

(3) Attendance by district judges, district associate judges, associate juvenile judges, associate probate judges, and judicial magistrates at district judicial conferences called by chief judges of the district court.

(4) Attendance to give testimony before committees of the general assembly, at the committees' request.

(5) Attendance at meetings of judicial nominating commissions as the judicial member of the commission.

(6) Performance of functions as a member of committees or commissions appointed by the supreme court, the chief justice, or a chief judge of the district court on court procedure, administration, or structure.

(7) Attendance at meetings when designated by the chief justice to represent the judicial branch.

(8) If approved in advance by the chief justice: attendance to serve as judge at moot court proceedings for Iowa Law School and Drake Law School not to exceed one attendance per calendar year by any one attending judge; attendance at legal or judicial educational and training sessions and courses outside the state; and attendance at meetings of national associations of chief justices, appellate court justices and judges, trial court judges, and judicial officers of limited jurisdiction.

(9) Performance by chief judges of the district court of their administrative functions.

(10) Attendance by members of the judicial council at meetings of the council and of its committees.

(11) Performance by liaison justices of their functions as such within their assigned judicial districts.

(12) Attendance by district associate judges and judicial magistrates at the Iowa judicial magistrates schools of instruction and traffic court conferences.

(13) Performance of functions for which reimbursement of travel expense is authorized by any other Iowa statute or rule of the supreme court.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002; Supervisory Order August 10, 2004]

**Rule 22.17 Reimbursable travel.**

**22.17(1)** *In-state.*

*a.* Expenses incurred for in-state travel outside the judicial district, except expenses incurred by juvenile court officers in the discharge of their official duties, are not reimbursable unless prior approval for the travel has been given by the chief justice or the chief justice's designee on a prescribed form. In-state travel for juvenile court officers shall include travel within a 100-mile radius outside the borders of the state of Iowa. Expenses incurred for in-state travel outside the judicial district by juvenile court officers in the discharge of their official duties are not reimbursable unless approval for the travel has been given by the chief juvenile court officer of the judicial district.

*b.* Reimbursement under this chapter for in-state travel expenses incurred by juvenile court officers in the discharge of their official duties shall be provided from funds administered by the judicial branch or pursuant to Iowa Code section 232.141, as applicable.

**22.17(2)** *Out-of-state.*

*a.* Requests to attend conferences, meetings, training courses, programs, and similar gatherings which require out-of-state travel shall be submitted to the chief justice or the chief justice's designee on a prescribed form at least two weeks prior to the proposed departure date. No reimbursement of out-of-state expenses shall be made unless the trip has received prior approval of the chief justice or the chief justice's designee except as otherwise provided in this rule.

*b.* Reimbursement for expenses incurred for out-of-state travel by juvenile court officers in the discharge of their official duties relating to court-ordered transportation and placement shall be allowed if oral or written approval is given by the chief juvenile court officer of the judicial district and the chief justice or the chief justice's designee at any time prior to the proposed departure.

*c.* Reimbursement under this chapter for out-of-state travel expenses incurred by juvenile court officers in the discharge of their official duties shall be provided from funds administered by the judicial branch or pursuant to Iowa Code section 232.141, as applicable.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002]

**Rule 22.18 Transportation.**

**22.18(1)** *Route and conveyance.* Transportation shall be by the usually traveled route. Mileage shall be based on mileage published by the department of transportation. Reimbursement shall be limited to the most economical means of conveyance available.

**22.18(2)** *Mileage — personal car.* Judicial officers, court reporters, and court employees shall be reimbursed their mileage expense when required in the discharge of official duties to travel outside

their official domicile. Reimbursement shall be for the miles driven from the official domicile or employee's residence, whichever is less, to the assigned work location. In no instance shall employees and judicial officers be reimbursed for more than actual miles driven, or for commuting to and from their residence and their official domicile or a courthouse within their county of residence. Carpooling is required whenever possible. A judge and the judge's court reporter shall not be separately reimbursed for duplicate mileage expense in traveling to court assignments. The allowance for use of a private automobile on official judicial branch business shall be established by order[1] of the supreme court and shall be presumed to include all automobile expenses. Additionally, judicial officers, juvenile court officers, court reporters, and court employees shall be reimbursed their mileage expense for travel required in the discharge of official duties within the continuous metropolitan area of their official domicile, but not for commuting.

**22.18(3)** *Transportation other than private automobile.* Expenses for transportation other than private automobile are reimbursed on an actual incurred cost basis and must be claimed accompanied by an original receipt.

**22.18(4)** *Reimbursement of parking.* Reimbursement for parking expense is allowable when mileage is claimed. Receipts for parking, taxi and/or other transportation expenses, are not required when the total amount, per day, does not exceed $15. Receipts must be attached to the travel voucher for employees to receive reimbursement for the above expenses in excess of $15 per day.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002; Supervisory Order August 10, 2004]

**Rule 22.19 Lodging.**

**22.19(1)** *In-state.*

*a.* Lodging expense is reimbursed as incurred when a judicial officer, court reporter, or court employee is required, in the discharge of official duties, to leave the county of that person's official domicile. The name of the establishment where the expense is incurred shall be indicated on the claim form and the original receipt shall be attached. The single room rate is to be noted on the receipt when other than a single room was charged. Special rates for judicial officers, court reporters, and court employees are available at many motels and hotels in the state. An identification card identifying the holder as a judicial officer, court reporter, or court employee is usually necessary. Identification cards are available upon request from the office of the state court administrator. The allowance for lodging shall be the actual cost, but not exceeding $55 (plus applicable taxes) per day.

*b.* Judicial officers and court employees are to seek lodging facilities whose rates are within those prescribed in this rule or a reasonable explanation must be noted in the expense claim in order to be considered for reimbursement over the defined maximum rates. (*See* rule 22.21(6)). When seeking overnight lodging judicial officers and court employees should request the lowest of "state," "government," or "commercial" rates, as many facilities offer these "special" rates which a state employee can and should obtain.

**22.19(2)** *Out-of-state.* Lodging expense is not limited outside the state, but the incurred expenditures are to be reasonable. Lodging for approved out-of-state travel shall be reimbursed for the night preceding and the night of the ending date of the authorized meeting.

[Court Order November 9, 2001, effective February 15, 2002; June 16, 2006, effective July 1, 2006; January 4, 2012]

**Rule 22.20 Meals.**

**22.20(1)** *In-state.* Incurred meal expense shall be reimbursed at "reasonable and necessary" cost when a judicial officer, court reporter, or court employee is required, in the discharge of official duties, to leave the county of that person's official domicile. A maximum of $28 per day may be reimbursed for meals, as outlined below; however, if departure from the official domicile is before 6 a.m., a notation must be included on the Travel Voucher. At the return of the trip, if arrival back at the official domicile is after 7 p.m., a notation to this effect must be included on the Travel Voucher. Meal allowance for travel will be as follows:

*a.* Departure before 6 a.m. and return to official domicile after 7 p.m. may be reimbursed the actual cost for breakfast, lunch, and dinner up to a maximum of $28.

1. 40 cents per mile, Supervisory Order 7/18/07, effective 8/1/07.

*b.* Departure before 6 a.m. and return to official domicile before 7 p.m. may be reimbursed the actual cost for breakfast and lunch up to a maximum of $13.

*c.* Departure after 6 a.m. and return to official domicile after 7 p.m. may be reimbursed the actual cost for lunch and dinner up to a maximum of $23.

*d.* Departure after 6 a.m. and return to official domicile before 7 p.m. may be reimbursed the actual cost for lunch up to a maximum of $8.

**22.20(2)** *Out-of-state.* Meal expenses are not limited out-of-state, but the incurred expenses are to be reasonable. When in travel status, lunch and dinner the day preceding the meeting, and breakfast and lunch the day after a meeting, are reimbursable expenditures.

**22.20(3)** *Overnight lodging required.* The provisions for meal reimbursement in rules 22.20(1) and 22.20(2) apply only when the travel includes overnight lodging.

[Court Order November 9, 2001, effective February 15, 2002, May 8, 2006; July 18, 2007, effective August 1, 2007]

**Rule 22.21 Miscellaneous travel provisions.**

**22.21(1)** *Continuing education expenses.* Provisions relating to "Official duties," "Travel," "Transportation," "Lodging" and "Meals" as used in rules 22.16 through 22.21 shall not be applicable to expenses for continuing education requirements for court reporters or court employees, unless otherwise ordered by the chief justice or the chief justice's designee.

**22.21(2)** *Examining Board expenses.* Board of Law Examiners and Shorthand Reporters Examiners will be reimbursed actual and necessary expenses not to exceed one and one-half times the reimbursement allowances provided in rules 22.19 and 22.20.

**22.21(3)** *Living outside official domicile.* When additional expense is incurred by reason of a court employee maintaining a permanent home in a city, town, or metropolitan area other than that person's official domicile, unless otherwise determined by the state court administrator, the additional expense is not reimbursable.

**22.21(4)** *Registration fees.* Registration fees for authorized meetings and conferences are an allowable expense when accompanied by receipt.

**22.21(5)** *Claim preparation.* All claims shall be typewritten, or printed in ink, and signed by the claimant. Receipts for lodging, public transportation, and any authorized miscellaneous expenses shall be attached to the upper left-hand corner of the form. Claim for reimbursement for out-of-state travel shall be submitted for payment upon completion of the trip.

If reimbursement is sought pursuant to Iowa Code section 232.141, the district court administrator shall process the claim per rules and procedures of the applicable county and the department of human services.

**22.21(6)** *Exceptions.* The chief justice or the chief justice's designee may grant exceptions to rules 22.16 through 22.21 as necessitated by unusual circumstances.

**22.21(7)** *Refreshments.* The cost of refreshments served at meetings will not be reimbursed, except for educational programs sponsored and authorized by the chief justice or the chief justice's designee.

**22.21(8)** *Form.* A written request for travel authority from the chief justice or the chief justice's designee pursuant to rules 22.16 through 22.21 shall be in substantially the following form:

JUDICIAL BRANCH
REQUEST FOR TRAVEL AUTHORITY

_____ Outside of Iowa
_____ In-state, out of Judicial District

Date _____

Name _____
Title _____
Judicial District _____

Form to be submitted to Chief Justice of the Supreme Court or the Chief Justice's designee prior to proposed departure date. See rules 22.16 to 22.21 for applicable travel and time for submission.

DEPARTURE FROM:

DESTINATION:

TRAVEL DATES (ROUND TRIP):

MODE OF TRAVEL:

PURPOSE OF TRAVEL: (INCLUDE NATURE AND DATES OF MEETING OR OTHER PURPOSE OF TRAVEL AND JUSTIFICATION FOR PROFESSIONAL PURPOSES)

ESTIMATED COST:
Transportation:
Lodging:
Meals:
Other (Please Specify):
Total:

Anticipated Funding Source(s):

Approved as to form:

_____
District Court Administrator
(initials)

_____
Person requesting approval

_____
Supervising authority (when applicable)

Request Approved/Denied:

_____
Chief Judge Date

Request Approved/Denied:

_____
Chief Justice Date
Supreme Court of Iowa
(or Chief Justice's designee)

[Court Order June 11, 1981; November 30, 1981 (Received for publication January 5, 1983); June 28, 1984; June 28, 1985, effective July 1, 1985; October 3, 1985, effective October 15, 1985; May 15, 1986, effective July 1, 1986; November 20, 1986, effective December 1, 1986; July 21, 1988, effective August 1, 1988; October 12, 1989, effective November 1, 1989; November 13, 1990, effective January 2, 1991; January 17, 1991; July 12, 1991, effective July 12, 1991, for expenses on or after January 2, 1991; December 16, 1994, effective December 16, 1994; December 16, 1994, effective January 2, 1995; January 3, 1996; March 21, 1996; July 26, 1996; November 5, 1996; December 21, 1999, effective January 1, 2000; May 26, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

**Rule 22.22 Gifts.**

**22.22(1)** Judicial officers are not subject to the provisions of this rule, but shall be subject to the gift provisions of the Iowa Code of Judicial Conduct.

**22.22(2)** Except as otherwise provided in this rule, an employee of the judicial branch or a member of that person's immediate family shall not, directly or indirectly, accept, receive or solicit any gift or series of gifts.

**22.22(3)** As used in this rule:

*a. "Employee"* means any employee of the judicial branch other than a judicial officer subject to the gift provisions of the Iowa Code of Judicial Conduct.

*b. "Gift"* means a rendering of anything of value in return for which legal consideration of equal or greater value is not given or received, if the donor is:

(1) A party or other person involved in a case pending before the donee.

(2) A party or a person seeking to be a party to any sale, purchase, lease or contract involving the judicial branch or any of its offices, if the donee has authority to approve the sale, purchase, lease or contract, or if the donee assists or advises the person with authority to approve the sale, purchase, lease or contract.

(3) A person who will be directly or substantially affected by the performance or nonperformance of the donee's official duties in a way that is greater than the effect on the public generally or on a substantial class of persons to which the donor belongs as a member of a profession, occupation, industry or region.

*c. "Gift"* does not include:

(1) Informational material relevant to the employee's duties, such as books, pamphlets, reports, documents or periodicals, or the cost of registration for an education conference or seminar which is relevant to the employee's duties.

(2) Anything received from a person related within the fourth degree of kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.

(3) An inheritance or bequest.

(4) Anything available or distributed to the public generally without regard to the official status of the recipient.

(5) Actual expenses of a donee for food, beverages, travel, and lodging, which is given in return for participation at a meeting as a speaker, panel member or facilitator, when the expenses relate directly to the day or days on which the donee participates at the meeting, including necessary travel time.

(6) Plaques or items of negligible resale value given as recognition for public service.

(7) Nonmonetary items with a value of $3 or less that are received from any one donor during one calendar day.

(8) Items or services solicited by or given to a state, national or regional organization in which the state of Iowa or a political subdivision of the state is a member.

(9) Items or services received as part of a regularly scheduled event that is part of a conference, seminar or other meeting that is sponsored and directed by any state, national or regional organization in which the judicial branch is a member.

(10) Funeral flowers or memorials to a church or nonprofit organization.

(11) Gifts which are given to an employee for the employee's wedding or twenty-fifth or fiftieth wedding anniversary.

*d. "Immediate family"* means the spouse and minor children of an employee of the judicial branch.

**22.22(4)** For purposes of determining the value of an item, an individual who gives an item on behalf of more than one person shall not divide the value of the item by the number of persons on whose behalf the item is given and the value shall be the value actually received by the donee.

**22.22(5)** An employee of the judicial branch or the person's immediate family member, may accept a nonmonetary gift or a series of nonmonetary gifts and not be in violation of this rule if the nonmonetary gift or series of nonmonetary gifts is donated within 30 days to a public body, the state court administrator, the department of general services, or a bona fide educational or charitable organization, if no part of the net earnings of the educational or charitable organization inures to the benefit of any private stockholder or other individual.

[Court Order June 30, 1980; July 31, 1987, effective August 3, 1987; December 29, 1992, effective January 1, 1993; August 19, 1993; November 9, 2001, effective February 15, 2002; April 30, 2010, effective May 3, 2010]

**Rule 22.23 Honoraria.**

**22.23(1)** An official or employee of the judicial branch shall not seek or accept an honorarium.

**22.23(2)** As used in this rule:

*a. "Honorarium"* means anything of value that is accepted by, or on behalf of, an official or employee of the judicial branch as consideration for an appearance, speech or article if the donor is:

(1) A party or other person involved in a case pending before the donee.

(2) A party or person seeking to be a party to any sale, lease, or contract involving the judicial branch or any of its offices, if the donee has authority to approve the sale, lease, or contract or if the donee assists or advises the person with authority to approve the sale, lease, or contract.

(3) A person who will be directly and substantially affected by the performance or nonperformance of the donee's official duties in a way that is greater than the effect on the public generally or on a substantial class of persons to which the donor belongs as a member of a profession, occupation, industry or region.

*b. "Honorarium"* does not include:

(1) Actual expenses of a donee for food, beverages, travel, lodging and registration which is given in return for participation at a meeting as a speaker, panel member or facilitator when the expenses relate directly to the day or days on which the donee participates at the meeting, including necessary travel time.

(2) Payment to an employee for services rendered as part of outside employment which has been approved pursuant to the department's personnel policies, if the payment is commensurate with the actual activity or services rendered and not based upon the employee's position within the department, but, rather, because of some special expertise or other qualification.

(3) Payment to a judge or magistrate for officiating and making return for a marriage pursuant to rule 22.29.

(4) Payment to a judge or senior judge for instruction at an accredited education institution, if the payment is commensurate with the actual activity or services rendered and not based upon the judge's official position.

(5) Payment to a part-time judge for services rendered as part of a bona fide business or profession in which the judge is engaged, if the payment is commensurate with the actual activity or services rendered and not based upon the judge's official position.

(6) Payment to a senior judge for services rendered as an arbitrator or mediator, if the payment is commensurate with the actual activity or services rendered and not based upon the senior judge's official position. [Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002]

**Rule 22.24 Interests in public contracts.**

**22.24(1)** A full-time official or employee of the judicial branch shall not sell any goods or services to any state agency.

**22.24(2)** As used in this rule, "services" does not include any of the following:

*a.* Instruction at an accredited education institution by a judge, senior judge or magistrate if permitted as a quasi-judicial or extrajudicial activity pursuant to the Code of Judicial Conduct or by an employee as part of outside employment which has been approved pursuant to the judicial branch's personnel policies.

*b.* The preparation of a transcript by an official court reporter.

[Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002; August 29, 2002]

**Rule 22.25 Services against the state.**

**22.25(1)** No official or employee of the judicial branch shall receive, directly or indirectly, or enter into an agreement, express or implied, for any compensation, in whatever form, for the appearance or rendition of services against the interest of the state in relation to any case, proceeding, application, or other matter before any state agency, any court of the state of Iowa, any federal court, or any federal bureau, agency, commission or department.

**22.25(2)** As used in this rule, "appearance or service against the interest of the state" means an appearance or service which conflicts with a person's duties or employment obligations owed to the state.

[Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002]

**Rule 22.26 Personal disclosure.**

**22.26(1)** Each official shall file a statement of personal financial disclosure in the manner provided in this rule. The disclosure must be filed even if there is no financial information to report. The disclosure must contain:

*a.* A list of each business, occupation, or profession (other than employment by the judicial branch) in which the person is engaged and the nature of that business, occupation, or profession, unless already apparent.

*b.* A list of any sources of income (other than income from employment by the judicial branch) if the source produces more than one thousand dollars annually in gross income. "Sources of income" includes those sources which are held jointly with one or more persons and which in total generate more than $1000 of income. "Jointly" means the ownership of the income source is undivided among the owners and all owners have one and the same interest in an undivided possession, each with full rights of use and enjoyment of the total income. Sources of income that are co-owned but with ownership interests that are legally divisible, without full rights of use of enjoyment of the total income, need not be reported unless the person's portion of the income from that source exceeds $1000. For purposes of this rule, income earned solely by the spouse of a person subject to reporting is not income to that person and need not be reported as a source of income.

Sources of income listed pursuant to this rule may be listed under any of the following categories:

(1) Securities.
(2) Instruments of financial institutions.
(3) Trusts.
(4) Real estate.
(5) Retirement systems.
(6) Other income categories specified in state and federal income tax regulations.

**22.26(2)** The statement of personal financial disclosure shall be reported on forms adopted by the supreme court and shall be filed with the clerk of the supreme court on or by the first day of April each year or no later than 30 days after assuming office. The statement of personal financial disclosure forms shall be retained for a period of two years.

[Court Order December 29, 1992, effective January 1, 1993; Statement required April 1, 1994; November 9, 2001, effective February 15, 2002; November 22, 2004]

**Rule 22.27 Definitions.** As used in rules 22.22 to 22.26:

**22.27(1)** *"Employee"* means a paid employee of the state of Iowa, including independent contractors, and does not include a member of a board, commission, or committee.

**22.27(2)** *"Official"* means an officer of the judicial branch performing judicial functions, including an associate juvenile judge, a magistrate or referee, an associate probate judge, and the state court administrator, and does not include a member of a board, commission, or committee.

[Court Order December 29, 1992, effective January 1, 1993; July 26, 1996; November 9, 2001, effective February 15, 2002]

**Rule 22.28 Transcripts — rates for transcribing a court reporter's official notes.**

**22.28(1)** Pursuant to Iowa Code section 602.3202, the maximum compensation of shorthand reporters for transcribing their official notes shall be as follows:

*a.* Ordinary transcript (a transcript of all or part of the proceedings) - $3.50 per page for the original and one copy to the party ordering the original and 50 cents per page for each additional copy.

*b.* Expedited transcript (a transcript of all or part of the proceedings to be delivered within seven calendar days after receipt of an order) - $4.50 per page for the original and one copy to the party ordering the original and 75 cents per page for each additional copy.

*c.* Daily transcript (a transcript of all or part of the proceedings to be delivered following adjournment for the day and prior to the normal opening hour of the court on the following morning whether or not it actually is a court day) - $5.50 per page for the original and one copy to the party ordering the original and $1.00 per page for each additional copy.

*d.* Unedited transcript (an unedited draft transcript produced as a byproduct of realtime or computer aided transcription software to be delivered on electronic media or paper) - $2.25 per page for the original and 25 cents per page for each copy. The unedited disk or printed draft transcript shall not be certified and may not be used to contradict the official district court transcript.

*e.* Realtime transcript (an unedited draft transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings for viewing and retention) -

$2.75 per page for the original and $1.00 per page for each copy. The unedited text of the proceedings shall not be certified and may not be used to contradict the official district court transcript. Litigants who order realtime services, and subsequently order an original certified transcript of the same proceeding, will not receive credit toward the purchase cost of the certified transcript. Only certified realtime reporters may be compensated for such transcripts.

**22.28(2)** These rates of compensation shall apply to each separate page of transcript even if they are produced in a condensed transcript format.

**22.28(3)** These rates of compensation shall be the same whether the transcript is produced in an electronic or paper format. A certified transcript may be sold in an electronic format only if a paper transcript is produced, certified, and filed with the clerk of court for the records of the court or delivered to the custodial attorney. No additional charge is permitted for an ASCII disk or other form of electronic media when it accompanies a paper transcript.

**22.28(4)** Court reporters are only required to prepare ordinary transcripts. They may, but are not required to, produce the types of transcripts described in rule 22.28(1)(*b*-*e*).

[Court Order March 15, 2007; November 9, 2009; May 27, 2010; April 4, 2012]

**Rule 22.29 Marriage fees received by a judicial officer.**

**22.29(1)** A judge or magistrate may charge a fee for officiating and making return for each marriage solemnized at a time other than regular judicial working hours and at a place other than a court facility. This fee shall not exceed the sum of $200.

**22.29(2)** A judge or magistrate may charge the parties to the marriage for expenses incurred in solemnizing the marriage. In no event shall the expenses charged exceed the maximum amounts set by rules 22.16 through 22.21.

**22.29(3)** The phrase "regular judicial working hours," for purposes of this rule, shall mean 8 a.m. to 5 p.m. Monday through Friday (except for legal holidays) for all judicial officers except magistrates, and for them the schedule fixed by the chief judge of the judicial district.

[Court Order July 1, 1983; received for publication April 2, 1984; September 17, 1984; Court Order July 7, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; March 16, 2006]

**Rule 22.30 Use of signature facsimile.**

**22.30(1)** In all instances where a law of this state requires a written signature by a justice of the supreme court, judge of the court of appeals, district judge, district associate judge, judicial magistrate, clerk of the district court, county attorney, court reporter, associate juvenile judge, associate probate judge, judicial hospitalization referee, probate referee, or law enforcement officer, any such officer may use, or direct and authorize a designee to possess and use, a facsimile signature stamp bearing that officer's signature or an electronically scanned signature of the officer pursuant to the provisions of this rule.

**22.30(2)** Whether used personally by the officer whose signature it bears or by a designee of that officer, a facsimile signature stamp or electronically scanned signature must contain a true facsimile of the actual signature of that officer. The stamp or electronically scanned signature shall be kept in the secure possession of the officer or that officer's designee at all times, accessible only to the officer or the officer's designee.

**22.30(3)** An officer directing and authorizing a designee to possess and use a facsimile signature stamp or electronically scanned signature bearing that officer's signature shall execute a written designation of the authorization. The designation shall be addressed to the designee, by name or title, and shall specifically identify each category of documents to which the designee is authorized to affix the stamp or electronically scanned signature. The original of the written designation shall be filed with the district court administrator in the judicial district within which the officer is located; appellate judges and justices shall file their original designations with the clerk of the supreme court. A copy of the written designation shall be retained by the officer and by the designee.

**22.30(4)** A written designation made by an officer pursuant to rule 22.30(3) may be revoked, in writing, at any time by the officer who executed it, and shall stand automatically revoked upon that officer's ceasing to hold the office for any reason. A written revocation of designation shall be addressed to the former designee, in the same manner as the original designation. A copy of the written revocation shall be retained by the officer and by the former designee. A facsimile signature stamp in the possession of a former designee shall be forthwith returned to the officer who issued it, if available, or shall be destroyed by the former designee. A revoked electronically scanned signature shall be deleted.

# CHAPTER 46

# RULES OF THE BOARD OF EXAMINERS OF SHORTHAND REPORTERS


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# CHAPTER 46
# RULES OF THE BOARD OF EXAMINERS OF SHORTHAND REPORTERS

**Rule 46.1 Authorization and scope.** The rules in this chapter are adopted in conjunction with Iowa Code sections 602.3101 through 602.3302. They apply to all proceedings, functions, and responsibilities of shorthand reporters and the board of examiners.
[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.2 Definitions.** In this chapter:

(1) *"Certified shorthand reporter"* is an individual who has demonstrated by examination administered by the board of examiners that such individual has achieved proficiency in shorthand equivalent in the discretion of the board to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter, namely, the demonstrated ability to write dictated tests at 180 words per minute (question and answer — technical dictation), 200 words per minute (multivoice dictation for transcription or readback), and 225 words per minute (question and answer dictation), or such equivalents thereof as the board may select, each at 95 percent accuracy or better, and demonstrated written knowledge of the reporter's duties, Iowa legal procedure, and correct English usage at 70 percent accuracy or better. Individuals who hold the designation of Registered Professional Reporter from the National Court Reporters Association by passing said association's examination on or after May 1, 1973, and are in good standing with such association, may, upon application to the board of examiners, become certified shorthand reporters upon successfully passing a written examination concerning a reporter's duties, Iowa legal procedure, and correct English usage at 70 percent accuracy or better.

(2) *"Shorthand"* is a method of writing rapidly with stenographic machine by substituting characters, abbreviations, or symbols for letters, words, or phrases.

(3) *"Shorthand reporting"* is the professional skill whose practice by official shorthand reporters and freelance shorthand reporters serves the judicial branch of state government in courts of record, references by such courts or the law, depositions taken by shorthand reporters, or proceedings of like character, with the end in view of ensuring the accuracy and integrity of the record upon which courts rely for evidence, trial, and appellate review.
[Court Order June 5, 2008, effective July 1, 2008; December 18, 2014; October 15, 2015]

**Rule 46.3 Organization, meetings, and information.**

**46.3(1)** The officers of the board shall be a chairperson, selected by the supreme court of Iowa, and a secretary elected at the September meeting, each to serve for a term of one year, or until a successor is elected. Each shall perform the duties incumbent upon the office.

**46.3(2)** The board shall hold regular meetings for examination of applicants and the transaction of other business on the second Saturday of March and September of each year in Des Moines, Iowa, commencing at 9 a.m., or at such other times or places as the board may hereafter designate. Special meetings may be held upon the call of any two members of the board. A majority of three or more members of the board shall constitute a quorum. Business shall not be conducted unless a quorum is present. All actions of the board shall require a simple majority vote of those present.

**46.3(3)** The board shall, 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 shall authorize payment as provided in the budget. A separate bank account designated as the certified shorthand reporter operating account shall 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 shall be deposited in the certified reporter operating account for payment of the board's authorized expenditures.

**46.3(4)** The director of the office of professional regulation shall serve as the administrator for the board. Information may be obtained from the director at the Office of Professional Regulation, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319, by mail or in person during office hours.
[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.4 Applications.** Candidates for examination shall make written application on the form approved by the board and provided by the board's office. An application must be on file with the administrator at the board's office at least 30 days before the date of the examination, unless the board for good cause shown grants an applicant additional time to file or otherwise waives the 30-day filing deadline. Good cause for this purpose shall include illness, military service, unavoidable casualty or misfortune or other grounds beyond the control of the applicant. A new application is required for each examination. An applicant to become a certified shorthand reporter shall not be examined until said applicant has satisfied the board that the applicant's educational and special training includes at least one of the following:

**46.4(1)** The applicant has attained proficiency of 200 words per minute or more in a shorthand reporting course.

**46.4(2)** The applicant has had at least two years of experience as a shorthand reporter in making verbatim records of judicial or related proceedings.

**46.4(3)** The applicant has graduated from a shorthand reporting school approved by the National Court Reporters Association.

[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.5 Examination.**

**46.5(1)** Applicants shall be required to write shorthand from dictation of regular court proceedings, or such other matter as may be selected by the board of examiners, for such periods as shall be required at varying speeds within the standard.

**46.5(2)** Applicants will be examined with respect to their knowledge of the statutory duties of a court reporter, general Iowa court procedure, and correct English usage at a 70 percent or better accuracy rate.

**46.5(3)** Applicants shall be required to transcribe such part of the dictation as the board of examiners may indicate.

**46.5(4)** Applicants shall be required to read aloud such part of the dictated matter as the board of examiners may indicate.

**46.5(5)** Applicants shall be required to furnish their own equipment and supplies for taking shorthand. Applicants shall make their own transcript on a provided computer or typewriter unless the applicant is otherwise notified.

**46.5(6)** Upon completion of the examination, all shorthand notes, transcripts, and other papers used in connection with an examination shall be returned to the board.

**46.5(7)** Testing rules and guidelines of the National Court Reporters Association and the Board of the Academy of Professional Reporters for Registered Professional Reporters shall be used as a guide to procedure.

[Court Order June 5, 2008, effective July 1, 2008; December 18, 2014; October 15, 2015]

**Rule 46.6 Certification.** Each person who has achieved the designation of certified shorthand reporter shall be issued a certificate by the board of examiners. The certificate may be signed by the chairperson and secretary or by all of the board members.

[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.7 Fees.**

**46.7(1)** The fee for each examination is $200.

**46.7(2)** The fee for annual renewal is $85.

**46.7(3)** The fee for late filing of an annual report is $100.

**46.7(4)** The fee for reinstatement from a suspension is $100.

**46.7(5)** The fee for reinstatement for one granted a certificate of exemption is $50.

**46.7(6)** The fee for an extension for obtaining continuing education credit is $50.

[Court Order June 5, 2008, effective July 1, 2008; July 17, 2013, effective September 1, 2013]

**Rule 46.8 Continuing education requirement.**

**46.8(1)** Units of continuing education credits as approved by the board of examiners of shorthand reporters shall be completed by each reporter in active practice in Iowa. Failure to comply with the continuing education requirements shall be grounds for disciplinary action under rule 46.11. In order to comply, a reporter shall meet the requirements of rule 46.8(1)(*a*) or 46.8(1)(*b*):

*a.* Obtain at least three continuing education units (CEUs) within a three-year period by attending or participating in seminars, workshops, or courses, integrally relating to the field of shorthand reporting, and which contribute directly to the professional competency of the shorthand reporter. One hour of continuing education credit shall equal .1 continuing education unit.

Continuing education activities shall be conducted by individuals who have special education, training, and experience, and the individuals should be considered experts concerning the subject matter of the program. Attendance at any approved national, regional or state seminar will be acceptable.

Continuing education units earned in any one reporting period may be carried over for credit in one or more succeeding reporting periods, constituting the three-year period previously provided, but can not be carried over to any successive three-year period.

Commencing October 1, 2002, the annual reporting cycle shall run from October 1 through September 30. Continuing education requirements and the three-year reporting cycle for newly certified shorthand reporters will commence October 1 of the year following the year of their certification.

*b.* In lieu of the requirements set forth in rule 46.8(1)(*a*), the board will accept satisfactory evidence of compliance with the current continuing education requirements of the National Court Reporters Association for retention on its Registry of Professional Reporters.

**46.8(2)** The board may, in individual cases involving disability, hardship, or extenuating circumstances, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application is made and signed by the reporter. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**46.8(3)** Reporters who are not actively engaged in practice may obtain from the board a certificate of exemption from continuing education requirements. Application for such exemption shall contain a statement that the applicant will not engage in the practice of shorthand reporting in Iowa without first complying with the regulations governing reinstatement after exemption.

**46.8(4)** Inactive practitioners who have been granted a certificate of exemption from these regulations shall, prior to engaging in the practice of shorthand reporting in Iowa, satisfy the following requirements for reinstatement:

*a.* Submit written application for reinstatement to the board upon forms prescribed by the board together with a reinstatement fee of $50, and

*b.* Furnish in the application evidence of one of the following:

(1) Active shorthand reporting in another state of the United States or the District of Columbia and completion of continuing education requirements that are the substantial equivalent to the requirements set forth in these rules for court reporters in Iowa as determined by the board.

(2) Completion of continuing education units (CEUs) sufficient to satisfy education requirements for the period of inactivity if seeking reinstatement within three years of being granted a certificate of exemption.

(3) Successful passing of either the state of Iowa's certificate examination or the National Court Reporters Association's examination within one year immediately prior to the submission of such application for reinstatement.

[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.9 Approval of activity.** A reporter seeking credit for attendance and participation in an educational activity other than those sponsored or approved by the National or Iowa Court Reporters Associations shall submit to the board, within 30 days after completion of such activity, a request for credit, including a brief résumé of the activity, its dates, subjects, instructors and their qualifications, and the number of credit hours requested therefor. Within 60 days after receipt of such application, the board shall advise the reporter in writing by ordinary mail whether the activity is approved and the number of hours allowed therefor. A reporter not complying with the requirements of this rule may be denied credit for such activity.

[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.10 Continuing education reports.**

**46.10(1)** On or before December 1 of each year, each reporter shall file with the board, on forms provided by the board, a signed report concerning completion of continuing education for the prior

reporting period. Said report, along with the annual renewal fee, shall be sent to the board's office, Office of Professional Regulation, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319. The board may prescribe an electronic report form and require submission of the report in that form.

**46.10(2)** All active reporters who fail to file the annual report on or before December 1 of each year shall pay a penalty of $100.

[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.11 Penalty for failure to satisfy continuing education requirements.** The board may revoke or suspend the license of any reporter who fails to comply with rule 46.10 or who files a report showing a failure to complete the required number of education credits; provided that at least 30 days prior to the suspension or revocation, notice of the delinquency has been served upon the reporter in the manner provided for the service of original notices in Iowa R. Civ. P. 1.305 or has been forwarded to the reporter by restricted certified mail, return receipt requested, addressed to the reporter's last-known address. The reporter shall be given the opportunity during the 30 days to file in the board's office an affidavit establishing that the noncompliance was not willful and tender the documents and sums and penalties which, if accepted, would cure the delinquency. Alternatively, the reporter may file in the board's office a request, in duplicate, for hearing to show cause why the reporter's certificate should not be suspended or revoked. The board shall grant a hearing if requested. If the board orders a suspension or revocation it shall notify the reporter by either of the methods provided above. The suspension or revocation shall continue until the board has approved the reporter's written application for reinstatement.

[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.12 Disciplinary action.** The board may, upon its own initiative, or at the request of the supreme court of Iowa, or complaint by a third party, begin disciplinary procedures for violations of the board rules or the Code of Iowa against any reporter.

**46.12(1)** Charges against a reporter brought by a third party must be in writing, signed by the complainant, filed with the board, and contain substantiating evidence to support the complainant's allegations. The complaint shall include complainant's address and telephone number, be dated, identify the reporter, and give the address and any other information about the reporter which the complainant may have concerning the matter.

**46.12(2)** Such complaint, which will be held in confidence as required by law, shall be reviewed by the board. If the board concurs in the seriousness of the allegations made by the complainant, the board shall, in writing, advise the reporter of the charges involved. The reporter shall have 30 days from the receipt of the board's notice to answer the charges in writing. The reporter may request a personal appearance before the board. The board shall then review again the charges made and determine whether the complaint can be disposed of informally or if contested case proceedings should be commenced.

[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.13 Causes for disciplinary action.** The board may revoke or suspend a certificate, or impose any of the disciplinary sanctions included in this chapter for any of the following reasons:

**46.13(1)** All grounds listed in Iowa Code section 602.3203.

**46.13(2)** Failure to file an annual report showing satisfaction of the current requirement of continuing education or submission of a false report of continuing education.

**46.13(3)** Conviction of a misdemeanor related to the profession or occupation of the reporter.

**46.13(4)** Unless otherwise required by law, a violation of Iowa R. Civ. P. 1.713(1) or 1.713(2) in any state, federal, administrative, or other proceeding.

**46.13(5)** The board's receipt of a certificate of noncompliance from the Child Support Recovery Unit, pursuant to the procedures set forth in Iowa Code chapter 252J.

**46.13(6)** The board's receipt of a certificate of noncompliance from the College Student Aid Commission, pursuant to the procedures set forth in Iowa Code chapter 261.

**46.13(7)** The board's receipt of a certificate of noncompliance from the Centralized Collection Unit of the Department of Revenue, pursuant to the procedures set forth in Iowa Code chapter 272D.

[Court Order June 5, 2008, effective July 1, 2008; December 12, 2011]

**Rule 46.14 Contested case proceedings.**

**46.14(1)** Contested case proceedings which involve possible disciplinary sanctions shall be set for hearing on not less than ten days' notice to all parties. Notice of hearing shall be in writing and shall be served either by personal service or certified mail, return receipt requested.

**46.14(2)** The notice shall include all of the following information:

*a.* A statement of the time, place, and nature of the hearing.

*b.* A statement of the legal authority and jurisdiction under which the hearing is to be held.

*c.* A reference to the particular sections of the statutes and rules involved.

*d.* A concise statement of the matters asserted, or if the board is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved.

**46.14(3)** If a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjustment is granted, proceed with the hearing and make a decision in the absence of the party.

**46.14(4)** Opportunity should be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense.

**46.14(5)** Unless precluded by statute, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default, or by another method agreed upon by the parties in writing.

**46.14(6)** After the conclusion of a hearing, the board shall take any of the actions set forth in rule 46.15. The board's actions shall be set forth in writing, and a copy of the conclusions and decisions shall be served upon all parties and the supreme court of Iowa. The board may permit a reasonable time for the parties to file posthearing briefs and arguments. The report of the board shall be made within 60 days after the date set for the filing of the last responsive brief and argument. If the board cannot reasonably make its determination or file its report within such time limit, it shall report that fact and the reasons therefor to the parties and to the clerk of the supreme court. Any determination or report of the board need only be concurred in by a majority of the board members sitting, and any member has the right to file a dissent from the majority determination or report.

**46.14(7)** Procedures for the handling of all contested case proceedings shall, to the extent not specifically set forth in this chapter, be governed by the Iowa Administrative Procedure Act.

[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.15 Disciplinary sanctions.** The board may, based upon the evidence presented, take one or more of the following actions:

**46.15(1)** Dismiss the charges.

**46.15(2)** Informally stipulate and settle any matter relating to the reporter's discipline.

**46.15(3)** Require additional professional education.

**46.15(4)** Issue a citation and warning regarding the reporter's behavior.

**46.15(5)** Reprimand.

**46.15(6)** Impose a period of probation.

**46.15(7)** Suspend the certificate.

**46.15(8)** Revoke the certificate.

[Court Order June 5, 2008, effective July 1, 2008]

**Rule 46.16 Military service and veteran reciprocity.**

**46.16(1)** *Definitions.* In this rule:

*a. "Military service"* means honorably serving: in federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. section 10101.

*b. "Military service applicant"* is an individual requesting credit toward certification for military education, training, or service obtained or completed in military service.

*c. "Veteran"* is an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

**46.16(2)** *Military education, training, and service credit.* A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for certification by submitting a military service application to the board office.

*a.* The application may be submitted with an application for certification or examination or prior to an applicant's applying for certification or to take an examination. No fee is required for submission of an application for military service credit.

*b.* The applicant must identify the experience or educational certification requirement to which the credit would be applied if granted. Credit may not be applied to an examination requirement.

*c.* The applicant must provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

*d.* Upon receipt of a completed military service application, the board will promptly determine whether the verified military education, training, or service satisfies all or any part of the identified experience or educational qualifications for certification.

*e.* The board will grant the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for certification.

*f.* The board will inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for certification, or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

*g.* A military service applicant aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision. No fees or costs may be assessed against the military service applicant in connection with a contested case conducted pursuant to this rule 46.16(2).

*h.* The board will grant or deny the military service application prior to ruling on the application for certification. The applicant is not required to submit any fees in connection with the certification application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the certification application or request that the application be placed in pending status for up to one year or as mutually agreed. Withdrawal of a certification application does not preclude subsequent applications supported by additional documentation or information.

**46.16(3)** *Veteran reciprocity.*

*a.* A veteran with an unrestricted professional certificate as a shorthand reporter in another jurisdiction may apply for certification in Iowa through reciprocity. A veteran must pass any examinations required for certification to be eligible for certification through reciprocity and will be given credit for examinations previously passed when consistent with board rules on examination requirements. A veteran's fully completed application for certification submitted under rule 46.16(3) will be expedited and given priority.

*b.* A veteran's application for certification must contain all of the information required of all applicants for certification who hold unrestricted certificates in other jurisdictions and who are applying for certification by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant must use the same forms as any other applicant for certification by reciprocity and must additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

*c.* Upon receipt of a fully completed certification application, the board will promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is certified are substantially equivalent to the certification requirements in Iowa. The board will make this determination based on information the applicant supplies and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examination required for certification.

*d.* The board will promptly grant a certificate to the veteran if the applicant is certified in the same or similar profession in another jurisdiction whose certification requirements are substantially equivalent to those required in Iowa and the applicant has passed the written examination administered by the board pursuant to rule 46.5(2), unless the applicant is ineligible for certification based on other grounds, such as the applicant's disciplinary or criminal background.

*e.* If the board determines that the certification requirements in the jurisdiction in which the veteran is certified are not substantially equivalent to those required in Iowa, the board will promptly inform the veteran of the additional experience, education, or examinations required for certification in Iowa.

Unless the applicant is ineligible for certification based on other grounds, such as disciplinary or criminal background, the following apply:

(1) If a veteran has not passed the required examinations for certification, the applicant may not be issued a provisional certificate but may request that the certification application be placed in pending status for up to one year or as mutually agreed to provide the veteran with the opportunity to satisfy the examination requirements.

(2) If additional experience or education is required for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional certificate for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board may issue a provisional certificate for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare, or safety of the public, unless the board determines that the deficiency is of a character that the public health, welfare, or safety will be adversely affected if a provisional certificate is granted.

(3) If a request for a provisional certificate is denied, the board will issue an order fully explaining the decision and inform the applicant of the steps the applicant may take to receive a provisional certificate.

(4) If a provisional certificate is issued, the application for full certification will be placed in pending status until the applicant successfully completes the necessary experience or education or the provisional certificate expires, whichever occurs first. The board may extend a provisional certificate on a case-by-case basis for good cause.

*f.* A veteran who is aggrieved by the board's decision to deny an application for a reciprocal certificate or a provisional certificate, or who is aggrieved by the terms under which a provisional certificate will be granted, may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision. No fees or costs will be assessed against the veteran in connection with a contested case conducted pursuant to this rule 46.16(3).

**46.16(4)** *Substantially equivalent certification requirements.* The certification requirements of another jurisdiction are substantially equivalent to those of Iowa, if in that jurisdiction an individual must demonstrate, by examination administered by the licensing authority of the jurisdiction, proficiency in shorthand equivalent to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter.

[Court Order December 18, 2014; October 15, 2015]

**Rule 46.17 Certification by reciprocity.**

**46.17(1)** An applicant with an unrestricted professional certificate as a stenographic shorthand reporter in another jurisdiction may apply for certification in Iowa through reciprocity. The applicant will be given credit for examinations previously passed when consistent with board rules on examination requirements.

**46.17(2)** An applicant's application for certification must contain completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check.

**46.17(3)** Upon receipt of a fully completed certification application, the board will promptly determine if the professional or occupational licensing requirements of the jurisdiction where the applicant is certified are substantially equivalent to the certification requirements in Iowa. The board will make this determination based on information the applicant supplies and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: method of practice, scope of practice, education and coursework, degree requirements, postgraduate experience, and examination required for certification.

**46.17(4)** The board will promptly grant a certificate to the applicant if the applicant is certified in the same or similar profession in another jurisdiction whose certification requirements are substantially equivalent to those required in Iowa and the applicant has passed the written examination administered by the board pursuant to rule 46.5(2), unless the applicant is ineligible for certification based on other grounds, such as the applicant's disciplinary or criminal background.

**46.17(5)** If the board determines that the certification requirements in the jurisdiction in which the applicant is certified are not substantially equivalent to those required in Iowa, the board will promptly inform the applicant of the additional experience, education, or examinations required for certification in Iowa.

**46.17(6)** An applicant who is aggrieved by the board's decision to deny an application for a reciprocal certificate may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision.

**46.17(7)** The certification requirements of another jurisdiction are substantially equivalent to those of Iowa, if in that jurisdiction an individual must demonstrate by examination administered by the licensing authority of the jurisdiction, proficiency in stenographic shorthand equivalent to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter.

[Court Order October 15, 2015]

## PART 3

## APPOINTMENTS — DELAY

**602.2301 Judicial officer appointment — delay.**

1. Notwithstanding section 46.12, the chief justice may order the state commissioner of elections to delay, for budgetary reasons, the sending of a notification to the proper judicial nominating commission that a vacancy in the supreme court, court of appeals, or district court has occurred or will occur.

2. Notwithstanding sections 602.6304, 602.7103B, and 633.20B, the chief justice may order any county magistrate appointing commission to delay, for budgetary reasons, publicizing the notice of a vacancy for a district associate judgeship, associate juvenile judgeship, or associate probate judgeship.

3. Notwithstanding section 602.6403, subsection 3, if a magistrate position is vacant due to a death, resignation, retirement, an increase in the number of positions authorized, or to the removal of a magistrate, the chief justice may order any county magistrate appointing commission to delay, for budgetary reasons, the appointment of a magistrate to serve the remainder of an unexpired term.

4. Any delay authorized by the chief justice pursuant to this section shall not exceed one year in duration, and not more than eight delays authorized by the chief justice shall be in effect at any one time.

2011 Acts, ch 78, §2

For provisions authorizing policies and procedures that may be contrary to the requirements of this section in order to efficiently and effectively administer justice throughout the state for each fiscal year of the fiscal period beginning July 1, 2017, and ending June 30, 2019, see 2017 Acts, ch 166, §14

# ARTICLE 3

# CERTIFICATION AND REGULATION OF SHORTHAND REPORTERS

Referred to in §272C.1, 602.1209, 602.1511, 602.6603

## PART 1

## CERTIFICATION

**602.3101 Board of examiners.**

1. A five-member board of examiners of shorthand reporters is established, consisting of three certified shorthand reporters and two persons who are not certified shorthand reporters and who shall represent the general public. Members shall be appointed by the supreme court. A certified member shall be actively engaged in the practice of certified shorthand reporting and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. Professional associations or societies composed of certified shorthand reporters may recommend the names of potential board members to the supreme court, but the supreme court is not bound by the recommendations. A board member shall not be required to be a member of a professional association or society composed of certified shorthand reporters.

2. The supreme court shall appoint the administrator of the board.

3. The supreme court shall supervise the board and may review, approve, modify, or reject any board action, procedure, or decision. The supreme court may adopt rules to implement this subsection.

83 Acts, ch 186, §4101, 10201; 2006 Acts, ch 1129, §4; 2010 Acts, ch 1159, §8; 2017 Acts, ch 133, §6

**602.3102 Terms of office.**

Appointments shall be for three-year terms and each term shall commence on July 1 of the year in which the appointment is made. Vacancies shall be filled for the unexpired term by appointment by the supreme court. Members shall serve a maximum of three terms or nine years, whichever is less.

83 Acts, ch 186, §4102, 10201

**602.3103 Public members.**

The public members of the board may participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

83 Acts, ch 186, §4103, 10201

**602.3104 Meetings.**

The board of examiners shall fix stated times for the examination of the candidates and shall hold at least one meeting each year at the seat of government. A majority of the members of the board constitutes a quorum.

83 Acts, ch 186, §4104, 10201

**602.3105 Applications.**

Applications for certification shall be on forms prescribed and furnished by the board and the board shall not require that the application contain a photograph of the applicant. An applicant shall not be denied certification because of age, citizenship, sex, race, religion, marital status, or national origin although the application may require citizenship information. Character references may be required, but shall not be obtained from certified shorthand reporters.

83 Acts, ch 186, §4105, 10201; 89 Acts, ch 296, §80; 2015 Acts, ch 84, §1

**602.3106 Fees — appropriation.**

1. The supreme court shall set the fee for certification examinations. The fee shall be based on the annual cost of administering the examinations and upon the administrative costs of sustaining the board, which shall include but shall not be limited to the cost for per diem, expenses, and travel for board members, and office facilities, supplies, and equipment.

2. The fees collected are appropriated to the judicial branch and shall be used to offset the expenses of the board, including the costs of administering the examination.

83 Acts, ch 186, §4106, 10201; 93 Acts, ch 85, §3; 2013 Acts, ch 45, §1

**602.3107 Examinations.**

The board may administer as many examinations per year as necessary, but shall administer at least one examination per year. The scope of the examinations and the methods of procedure shall be prescribed by the board. A written examination may be conducted by representatives of the board. Examinations in theory shall be in writing and the identity of the person taking the examination shall be concealed until after the examination papers have been graded. For examinations in practice, the identity of the person taking the examination also shall be concealed as far as possible. Applicants who fail the examination once may take the examination at the next scheduled time. Thereafter, the applicant may be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request in writing information from the board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, and the board shall provide the information. However, if the board administers a uniform, standardized examination, the board is only required to provide the examination grade and other information concerning the applicant's examination results that is available to the board.

83 Acts, ch 186, §4107, 10201

**602.3108 Certification.**

The board may issue a certificate to a person of good moral character and fitness who makes application on a form prescribed and furnished by the board and who satisfies the education, experience, and examination requirements of this article and rules prescribed by the supreme court pursuant to this article. The board may consider the applicant's past record of any felony conviction and the applicant's past record of disciplinary action with respect to certification as a shorthand reporter in any jurisdiction. The board may deny certification if the board finds the applicant has committed any of the acts listed in section 602.3203 or has made a false statement of material fact on the application for certification.

2015 Acts, ch 84, §2

PART 2

REGULATION

**602.3201 Requirement of certification — use of title.**

A person shall not engage in the profession of shorthand reporting unless the person is certified pursuant to this chapter, or otherwise exempted pursuant to section 602.6603, subsection 4. Only a person who is certified by the board may assume the title of certified shorthand reporter, or use the abbreviation C.S.R., or any words, letters, or figures to indicate that the person is a certified shorthand reporter.

83 Acts, ch 186, §4201, 10201; 89 Acts, ch 296, §81

**602.3202 Transcript fee.**

Certified shorthand reporters are entitled to receive compensation for transcribing their official notes as set by rule of the supreme court, to be paid for in all cases by the party ordering the transcription.

83 Acts, ch 186, §4202, 10201

Referred to in §602.1502

Fees; see **R.App.P. 6.803(4), (5)**

**602.3203 Revocation or suspension.**

A certification may be revoked or suspended if the person is guilty of any of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of shorthand reporting, or engaging in unethical conduct or in a practice that is harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony. A copy of the record of conviction or plea of guilty is conclusive evidence.
6. Fraud in representations relating to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Noncompliance with section 602.3204.

83 Acts, ch 186, §4203, 10201; 89 Acts, ch 296, §82; 2015 Acts, ch 84, §3

Referred to in §272C.3, 272C.4, 602.3108, 602.3205

**602.3204 Transcript integrity.**

A certified shorthand reporter taking a deposition, or any other person with whom the certified shorthand reporter has a principal-agent or employer-employee relationship, shall not enter into an agreement for reporting services that requires the certified shorthand reporter to relinquish control of an original deposition transcript and copies of the transcript before it is certified and delivered to the custodial attorney.

2015 Acts, ch 84, §4

Referred to in §602.3203

**602.3205 Audio recordings.**

1. Except as provided in subsection 2 or 3, a certified shorthand reporter's audio recordings used solely for the purpose of providing a verbatim written transcript of a court proceeding or a proceeding conducted in anticipation of use in a court proceeding shall be considered the personal property and private work product of the certified shorthand reporter.

2. An audio recording of a certified shorthand reporter appointed under section 602.6603 shall be provided to the presiding judge or chief judge for an in camera review upon court order for good cause shown.

3. *a.* An audio recording of a certified shorthand reporter shall be provided to the board upon request by the board if a disciplinary proceeding is pending regarding the certified shorthand reporter who is a respondent under the provisions of section 602.3203 or the rules of the board of examiners of shorthand reporters, **Iowa court rules, ch. 46**.

*b.* The audio recordings provided to the board pursuant to this subsection shall be kept confidential by the board in a manner as provided in section 272C.6, subsection 4.

2015 Acts, ch 84, §5; 2015 Acts, ch 138, §47, 161, 162

**602.3206 Exempt status.**

If a person's certification as a shorthand reporter is placed in exempt status, the person may transcribe or certify a proceeding the person reported while certified as an active shorthand reporter. A person transcribing or certifying a proceeding pursuant to this section shall remain subject to the jurisdiction of the board of examiners of shorthand reporters.

2017 Acts, ch 133, §7

## PART 3

## PENAL PROVISIONS

**602.3301 Misuse of confidential information — penalty.**

1. A member of the board shall not disclose information relating to the following:

*a.* Criminal history or prior misconduct of the applicant.

*b.* The contents of the examination.

*c.* Examination results other than final scores except for information about the results of an examination which is given to the person who took the examination.

2. A member of the board who willfully communicates or seeks to communicate information referred to in subsection 1, or a person who willfully requests, obtains, or seeks to obtain information referred to in subsection 1, is guilty of a simple misdemeanor.

83 Acts, ch 186, §4301, 10201

**602.3302 Violations punished.**

A person who violates any provision of this article is guilty of a simple misdemeanor.

83 Acts, ch 186, §4302, 10201

# ARTICLE 4

# SUPREME COURT

Referred to in §602.5110

## PART 1

## GENERAL PROVISIONS

**602.4101 Justices — quorum.**

1. The supreme court consists of seven justices. A majority of the justices sitting constitutes a quorum, but fewer than three justices is not a quorum.

## 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)** 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. 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)** On motion joined with or filed within the time allowed for a motion for new trial, the findings and conclusions may be enlarged or amended and the judgment or decree modified accordingly or a different judgment or decree substituted. But a party, on appeal, may challenge the sufficiency of the evidence to sustain any finding without having objected to it by such motion or otherwise. 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).

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

**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 chapter668 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.

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.

**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.

## How to Redact Protected Information

When a transcript contains information that is defined as Protected Information under Rule 16.602, this information should be redacted as required by Division VI rules. The following chart provides a guideline on how this data should be redacted.

***Note!*** The redacted transcript must retain the page integrity of the verbatim transcript.

| Protected Information Type | Protected Information | Public Information (see Rule 16.605) |
|---|---|---|
| Social security number | 483-54-5228 | XXX-XX-5228 |
| Financial account numbers | 5431-2453-0010-8222 | XXXX-XXXX-XXXX-8222 |
| Date of birth | 04/20/1957 | XX/XX/1957 |
| Names of minor children<br>(Examples when children share initials) | Marie Angela Brown | MABXXXXXXXXXXXXX<br>OR<br>XXXXXXXXXXXXXMAB |
| | Max Aaron Brown | MAB2XXXXXXXXX<br>OR<br>MRBXXXXXXXXXX |
| Individual taxpayer identification numbers | 338-56-5003 | XXX-XX-5003 |
| Personal identification numbers | 16161 | XX161 |
| Other unique identifying numbers | PM596423 | XXXXX423 |

***Note!*** If there are no required redactions in the original transcript, the transcript is filed without a redacted copy and files the Notice of Transcript Redaction with it.