

**LOCAL COURT RULES**  
**EIGHTH JUDICIAL DISTRICT**

## **RULE 1**

### **FILING AND PUBLICATION OF RULES**

**All Rules of Practice and Procedure and subsequent amendments shall be filed in each county of the District and with the Clerk of the Supreme Court of Iowa. The District Court Administrator shall cause all Rules and amendments to be printed and distributed to the Bar and made available to the public through the Iowa Judicial Branch Website.**

## **RULE 2**

### **MOTION DAYS**

**On motion day all motions (except motions for summary judgment) on file 14 days or more shall be deemed submitted unless prior to said motion day the motion has been set down for oral argument by written order of the court fixing the time, date and place for such oral argument. The failure of counsel to provide a written draft order to the Court shall be deemed a waiver of oral argument.**

**Iowa R. Civ. P. 1.981 governs motions for summary judgment.**

### **RULE 3**

#### **CONTINUANCE TO A DATE CERTAIN**

**Matters shall not be continued “until further order of court” except in exceptional circumstances. All matters shall be continued to a date certain even though the possibility exists that the matter may need to be continued again or rescheduled unless the same is given to the court administrator for assignment.**

**A second continuance pursuant to Iowa R. Civ. P. 1.944 shall be granted only upon proof of unusual circumstances after a hearing.**

## **RULE 4**

### **CASE MANAGEMENT**

**All applications for orders setting any case, motion, application, pleading, or other matter for hearing, except for those matters routinely heard on court service day, shall be presented to the court administrator or assistants, who are hereby authorized to execute such orders with the same force and effect as if executed by a judge. However, a judge may waive the requirement of this rule and sign the order.**

**RULE 5**

**GRAND JURORS**

**By direction of the Chief Judge, the grand jury shall be summoned to appear when ordered by the presiding judge.**

## **RULE 6**

### **CONTINUITY OF JUDICIAL RULINGS**

**When a party in a matter that has been decided by a judge or jury files a bill of exceptions or files a motion or an application for new trial, for judgment notwithstanding the verdict, in arrest of judgment, or to amend or enlarge findings and conclusions, or to modify or substitute the judgment order or decree, he or she shall file an extra copy thereof for the judge who presided at the trial or entered the order, and the clerk shall forthwith mail or deliver the extra copy to such judge. The judge who presided will make the arrangements for hearing upon such bill, motion or application and rule.**

## **RULE 7**

### **SPECIAL ASSIGNMENT**

**In cases of substantial factual or legal magnitude which represent a complexity of issues, and where judicial continuity would be useful in timely bringing the case to trial, counsel may petition the Chief Judge for assignment of a judge to handle all aspects of the case from filing until final disposition. The special assignment of a judge is discretionary with the Chief Judge.**

## **RULE 8**

### **CONDUCT IN THE COURTROOM**

**All persons attending a session of court shall be seated and conduct themselves in a quiet and orderly manner. All persons attending a court session shall remain in the public seating area behind the bar, except court personnel, members of the Bar, and participants in the court proceedings.**

**No person shall bring into the courtroom while court is in session any sign, placard, photographic equipment, television equipment, broadcasting equipment, sound recording equipment, or firearm or other deadly weapon, (except for certified peace officers) without permission of the Court. Smoking is prohibited in courtrooms at all times.**

## **RULE 9**

### **COUNSEL IN COURT**

**Counsel engaged in proceedings in open court shall be properly attired. It shall be the responsibility of the attorneys to see that the parties and witnesses attend the court in suitable attire.**

**Counsel shall remain seated at the counsel table while examining witnesses, except that counsel may stand and leave the counsel table while examining a witness with respect to an exhibit or addressing a jury. They shall stand while arguing matters to the Court, remaining a reasonable distance from the bench.**

**The Court and Court Administrator shall be properly advised when any assigned matter is settled or otherwise disposed of, or when counsel will not for any reason be present at the scheduled time.**

## **RULE 10**

### **PROHIBITED ACTS**

**No attorney or any party of any litigation in any of the courts of this District shall in the courtroom express any thanks, gratitude or dissatisfaction to either the Court or the jury; or offer to shake hands with any of them upon rendition of a verdict or announcement of a decision in any action tried and determined before such court; nor shall any such attorney or party litigant incite or in any manner cause any demonstration of any kind in the courtroom at any time the court is in session. All attorneys shall admonish their clients and witnesses before trial of this rule. Violation of this rule of formality may, in the discretion of the Court, render the offender liable to be adjudged in contempt of court.**

## **RULE 11**

### **REMOVAL OF FILES**

**None of the files of the office of the Clerk of the District Court shall be taken or removed from the office of said clerk without an order of court, except on receipt of any attorney or an abstractor or his/her representative residing in the county where such files are kept. Such receipt shall particularly describe the file or papers taken, stating the date of taking, and shall be returned within ten days after the date of taking, or upon demand of the clerk or judge of said court.**

## **RULE 12**

### **PROCEDURE FOR WITHDRAWAL OF APPEARANCE**

**The appearance of an attorney in any case may be withdrawn only by court order on written application to the Court, with (1) the client's written consent attached, or (2) upon hearing with notice to be prescribed by the Court, or (3) by ex parte proceedings when the attorney files an affidavit stating that the whereabouts of the client is unknown and that diligent inquiry has been made to locate such person. Where replacement counsel appear of record for the client, an attorney may withdraw an appearance without order of court by filing a written withdrawal of appearance with a copy mailed or delivered to the client.**

## **RULE 13**

### **APPEAL**

**When a notice of appeal has been filed in any civil or criminal case with the clerk of court, the clerk shall mail a copy of said notice to the court reporter involved in the case. In all other cases where the Court has ordered a transcript of judicial proceedings, the clerk shall mail a copy of the order to the court reporter involved in the proceedings.**

**RULE 14**

**GUARDIAN AD LITEM**

**The clerk shall tax for the service of any guardian ad litem who has appeared and filed an answer, a fee in an amount to be determined by the Court.**

**RULE 15**

**REFEREE – FINAL REPORT – APPROVAL**

The clerk of the district court in each county shall procure and keep a stamp reading substantially as follows:

**FINAL REPORT EXAMINED AND RECOMMENDED FOR  
APPROVAL BY REFEREE IN PROBATE  
IN AND FOR \_\_\_\_\_ COUNTY, IOWA**

Whenever a final report in any estate filed in the district court for any county in this judicial district has been fully examined by the referee in probate of such county, and it has been found by such referee to be correct and that the fiduciary acting in such matter has in all respects complied with the law applicable (including but not by way of limitation, the discharge of all inheritance and income taxes together with the filing of proper receipt or acquittance; payment of all claims insofar as the assets of the estate permits, except such as the final report specifically shows are recommended for disallowance; and filing of proofs of notice of final report in accordance with the Probate Code of Iowa or a special order of Court in such matter, or the filing of waivers from all interested and proper parties), such referee shall in addition to attaching the regular certificate to such report, place said stamp on the face of the proposed order approving such final report. No order of discharge in an estate shall be signed without such stamp affixed unless a proper showing is made satisfying the Court that the law has been fully complied with insofar as possible in such matter.

## **RULE 16**

### **CHANGE OF TITLE**

**Every final report filed in estates shall contain a legal description of all real estate on which a change of title must be issued by the clerk, together with a showing of the names and interest of the distributees of said real estate. The order approving final report shall include a description of the real estate, the names of the distributees and the fractional interest to which each is entitled.**

**The fiduciary's designated attorney shall prepare a proposed certificate of change of title and present it to the referee in probate.**

## **RULE 17**

### **CONTINGENT FEES**

**No contract providing for the employment, on a contingent fee basis, of any attorney to assist in the collection of any sum alleged to be due by reason of tort, contract or otherwise, to any estate, guardianship, conservatorship, or any trust pending in any court in the Eighth Judicial District of Iowa, shall be entered into by the fiduciary of any such estate, guardianship, conservatorship or trust which provides for the payment to any attorney employed under said contract, as compensation for his/her services, any amount in excess of the following:**

**30 percent of any amount recovered by settlement, duly approved, made before trial is started in the District Court upon the claim involved.**

**40 percent of any amount recovered on said claim, after trial in the District Court has started, by reason of any settlement during such trial or as a result of the determination by trial.**

**50 percent of any amount recovered after a trial in the District Court and an appeal to an appellate court, which appeal is actually submitted and determined by the appellate court.**

**For the purpose of this rule, the start of a trial in the District Court shall mean the time when the jury is sworn in a jury trial or when the first opening statement of counsel has begun in a non-jury trial, or if no opening statement is made, when the evidence record has begun.**

**RULE 17 (continued)**

**No contract by any fiduciary of any estate, guardianship, conservatorship or trust pending in any Court of said district will be approved by any Court if said contract provides for the payment of compensation for fees in excess of the amounts hereinbefore stated in this rule unless specifically approved by the Court upon good cause shown.**

## **RULE 18**

### **APPLICATION FOR FEES**

**Applications for probate fees must set forth the total amount of the fees being requested by the attorney and fiduciary; what the maximum fee would be pursuant to Iowa Code Sections 633.197 or 633.198, if applicable, and unless waived by the personal representative, a statement of the services rendered, the time spent in rendering those services and the results obtained. All fee applications must be in writing and signed by the attorney and the fiduciary.**

**Fee requests, which include time for any member of the attorney's staff, may be deemed a request for extraordinary fees and subject to Iowa Ct. R. 7.2.**

## **RULE 19**

## **FEES IN CONSERVATORSHIPS, GUARDIANSHIPS AND TRUSTS**

**Every report or application requesting an allowance of attorney fees for guardians, conservators or trustees shall contain a written statement of the services rendered and time spent. In appropriate cases the Court may require a hearing or an additional statement explaining the importance of the time spent and results obtained.**

## **SUBMISSION OF APPLICATIONS FOR TEMPORARY ALLOWANCES**

**After filing of an order fixing time of hearing and upon proof of notice, all applications for temporary allowances in dissolution actions shall be submitted upon the affidavit in support and any resistance supported by affidavit, unless otherwise ordered by the Court. If child support is at issue, applicable guideline worksheets shall be filed. The affidavit must set forth both parties' income and assets as well as other pertinent financial information. The clerk shall on the date fixed for hearing present said application and any resistance to the presiding judge for ruling.**

## **RULE 21**

### **TEMPORARY PHYSICAL CARE**

**All requests for temporary physical care shall be submitted to the Court on affidavits only, for a time and date fixed by the Court. Affidavits shall be filed and served upon the adverse party (or counsel, if counsel has appeared in the case). No application for temporary physical care will be considered until all affidavits have been on file at least three business days before the submission date.**

**The Court may, in its discretion, hold an evidentiary hearing upon request of one of the parties for good cause shown.**

## **RULE 22**

### **MODIFICATION OF DECREES**

All proceedings to modify a final decree in a dissolution of marriage or separate maintenance action may be under the original file, but the same shall be commenced by serving notice in the manner of an original action and thereafter proceed in the manner of an original action including time to appear, move and plead, unless otherwise specifically ordered by the Court.

## **RULE 23**

## **CONTEMPT PROCEEDINGS**

**Each Order to Show Cause shall advise the opposing party as follows:**

**Contempt proceedings are quasi-criminal in nature: Upon a finding of contempt, you may be punished by a fine and/or jail term. You are advised to have an attorney counsel you and represent you in this matter. If you are indigent or partially indigent you have a right to have an attorney represent you at State expense. You may apply to the Court for the appointment of an attorney by using a form from the Clerk of Court, completing it and filing it at least five days before your contempt hearing. The contempt hearing will not be postponed because of a late-filed application or due to a failure to file an application and no application will be accepted on the date of the hearing. If you do not file an application for appointment of counsel by the deadline (five days before the hearing) and you do not appear with an attorney at the time of the hearing, it could be deemed a waiver of your right to counsel.**

## **TRIAL PREPARATION**

**Before conclusion of the pretrial conference in any dissolution of marriage case in which division of assets and liabilities, alimony or child support is an issue, counsel and their clients shall mutually prepare and file a written stipulation setting forth all of the assets and liabilities of the parties, together with the value of such assets and the amounts of such liabilities. Where the existence of an asset or liability is disputed, or the value of an asset or the amount of a liability cannot be agreed upon, such facts shall be appropriately indicated. In the event one of the parties will not mutually prepare and file the written stipulation, the other party may file a list of all assets and liabilities and the same may be deemed to be mutually agreed upon by both parties. In the event both parties fail to comply with this rule, the Court may impose sanctions as set forth in Rule 27, (7) A. B. or C.**

**RULE 25**

**FILING OF DECREES**

**All decrees dissolving a marriage shall be filed in the clerk's office within ten days after signing by a judge.**

## **RULE 26**

### **NOTICE OF CONFLICTING ENGAGEMENT**

**A Notice of Conflicting Engagement shall include, at a minimum: the caption of the conflicting proceeding; the type of conflicting hearing/trial; and, the date the conflicting hearing/trial was scheduled. A Notice of Conflicting Engagement shall be considered as a notice to adverse counsel, the Court, and judicial administration that there may be a pending conflict in an attorney's schedule which might affect a district or associate court proceeding. The Notice shall not be deemed a motion for continuance, or an automatic excuse from appearance. It shall be the ongoing responsibility of the attorney who files the Notice to keep adverse counsel, the Court, and judicial administration timely informed of the status of the potential conflict and the predicted resolution of it. An attorney experiencing a problem with conflicting court schedules shall exhaust all reasonable alternatives before filing a Motion for Continuance, including but not limited to, arrangement for the appearance of substitute counsel or negotiation of rescheduling with opposing counsel. Any Motion for Continuance based upon an attorney's conflicting engagement shall include a certification that the attorney has exhausted all reasonable alternatives prior to filing the motion and shall include the client's written statement that the client is aware of the conflicting engagement and the grounds for the continuance.**

**RULE 26 (continued)**

**An attorney's failure to fulfill this obligation to timely update others about the attorney's schedule problems may result in the imposition of sanctions under Iowa R of Civ. P. 1.602.5.**

## **RULE 27**

### **PRE-TRIAL CONFERENCES IN DOMESTIC CASES**

**Dissolution of marriage disputes and other domestic-relations disputes (exclusive of Iowa Code Chapter 236 actions) brought into court in Judicial District 8 shall be processed as follows:**

- 1. After a petition is filed, the Court shall enter an order scheduling a pre-trial conference to be held approximately 120 days after the filing of the petition.**
- 2. Both parties and their attorneys shall appear personally to participate in the pre-trial conference.**
- 3. At or before the pre-trial conference, the parties shall file the following with the Court:**
  - a. Affidavits of Financial Status (Iowa Code Section 598.13);**
  - b. Child-Support Guidelines Worksheets (Supreme Court Rule);**
  - c. A Stipulation of Assets and Liabilities (District Rule 24);**
  - d. Proof of compliance with Iowa Code Section 598.19A (Children in the Middle Training).**
- 4. At the pre-trial conference, and once all required filings have been made, the parties and their attorneys shall report to the presiding judge to secure a pre-trial order that establishes any necessary discovery deadlines, directs mediation if required by the Court, lists unresolved issues and an estimate of trial length, and establishes a trial date.**
- 5. Record shall be made no later than at the pre-trial conference, confirming the settlement of all cases which are resolved and do not require trial assignment.**
- 6. The parties and their attorneys shall not be released from the mandatory pre-trial conference until the requirements of this rule have been met; and, no one shall be excused from attendance except by court order issued prior to the pre-trial conference.**

**RULE 27 (continued)**

- 7. Failure to comply with any requirement of this rule or any order issued pursuant to this rule may trigger any one or more of the following sanctions:**
  - a. The Court may disallow further evidence on issues covered by the filing requirements of section 3. A., B., or C above (except in the case of demonstrable changes occurring after the pre-trial conference and before trial or where newly discovered evidence emerges through timely pre-trial discovery).**
  - b. The Court may schedule a hearing to determine whether the litigant(s) and/or attorney(s) should be held in contempt of court for failure to appear or other noncompliance with a court order.**
  - c. The Court may impose sanctions, after hearing, under Iowa R. Civ. P. 1.602.5 for failure to comply with a pre-trial order.**

## **RULE 28**

### **MODIFICATION OF DOMESTIC DECREES**

**Cases for modification of dissolution-of-marriage or other domestic relation decrees shall be processed as follows:**

#### **1. Pretrial/Settlement Conference**

**An early pretrial/settlement conference shall be conducted to assure timely resolution of modification issues. After a petition or other modification application is filed, the Court shall enter an order scheduling a conference to be held approximately 90 days after the petition filing.**

#### **2. Procedure at Conference**

- A. Both parties and their attorneys shall appear personally to participate in the pretrial/settlement conference.**
- B. At or before the pretrial/settlement conference, the parties shall file the following with the Court (as applicable to the case issues):**
  - 1. Affidavits of Financial Status (bearing on issues of financial ability to pay spouse support, attorney fees, and/or court costs);**
  - 2. Child-Support Guidelines Worksheets (Supreme Court Rule); and**
  - 3. Proof of compliance with Iowa Code Section 598.19A (Children in the Middle Training).**
- C. At the pretrial/settlement conference, and once all required filings have been made, the parties and their attorneys shall report to the presiding judge to exhaust settlement negotiations and ultimately to secure a pretrial order that establishes any necessary discovery deadlines, directs further mediation if required by the Court, lists unresolved issues and an estimate of trial length, and approves the trial assignment set by the court administrator upon the attorneys' call.**

**RULE 28 (continued)**

- D. Record shall be made no later than at the conference, confirming the settlement of all issues which are resolved and do not require trial assignment.**
- E. The parties and their attorneys shall not be released from the mandatory pretrial/settlement conference until the requirements of this rule have been met; and, no one shall be excused from attendance except by court order issued prior to the conference.**
- F. Failure to comply with any requirement of this rule or any order issued pursuant to this rule may trigger any one or more of the following sanctions:**
  - 1. The Court may disallow further evidence on issues covered by the filing requirements of section 2.B. 1 or 2., above (except in the case of demonstrable changes occurring after the conference and before trial or where newly discovered evidence emerges through timely pretrial discovery).**
  - 2. The Court may schedule a hearing to determine whether the litigant(s) and or attorney(s) should be held in contempt of court for failure to appear or other noncompliance with a court order.**
  - 3. The Court may impose sanctions under Iowa R. Civ. P. 1.602.5 for failure to comply with a pretrial order.**

**RULE 29**

**MOTIONS RELATING TO DISCOVERY**

**No motion relating to discovery in criminal cases shall be considered by the Court unless counsel for the moving party certifies that he or she:**

- A. has conferred with opposing counsel in good faith to resolve by agreement the issues raised in the motion without the necessity of court intervention;**
- B. that counsel has been unsuccessful in reaching agreement; and**
- C. that the resulting motion is necessary to resolve any remaining contested issues.**

**Rule 30 – COMPENSATION OF ESTATE APPRAISERS, BROKERS, AND AGENTS**

**Pursuant to Iowa Code Section 633.21 compensation for appraisers, brokers, and agents employed at estate expense is established.**

- 1. Inheritance tax appraisers appointed under Iowa Code Section 450.24 shall be compensated at an hourly rate of \$50.00, for all time reasonably spent in appraisal activities, including necessary travel to view property. Mileage for travel shall be compensated at the then-applicable per-mile rate allowed State employees.**
- 2. Other appraisers, brokers, and agents employed at estate expense in the course of a probate administration shall be compensated for their services and reimbursed for their reasonable expenses at the rate and upon the terms customarily applied in the community for services of a similar nature.**

**All claims for fees and expenses under this rule shall be made in a written application to the Court, and shall be supported by an itemization of services provided, time spent (for compensation factored at an hourly rate), and expenses incurred. The Court may deviate from the compensation directed in this rule after a hearing for which reasonable notice has been provided to the personal representative and interested parties.**

**IN THE IOWA DISTRICT COURT  
EIGHTH JUDICIAL DISTRICT**

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