

1 [New Rule]

2  
3 **Rule 1. XX1. Expedited civil actions**

4  
5 **1.XX1(1) General provisions.**

6  
7 *a. Eligible actions.* This rule governs civil actions in which the sole relief sought is a money  
8 judgment and in which all claims (other than counterclaims) for all damages by or against any  
9 one party total \$75,000 or less, including damages of any kind, penalties, pre-filing interest, and  
10 attorneys' fees, but excluding pre-judgment interest accrued after the filing date, post-judgment  
11 interest, and costs.

12  
13 *b. Excluded actions.* This rule governing expedited civil actions does not apply to small  
14 claims and domestic relations cases.

15  
16 *c. Electing expedited procedures.* Eligible claimants can elect to proceed as an expedited civil  
17 action by:

18  
19 (1) Noting the election on the civil cover sheet and in the caption of the petition; and

20  
21 (2) Affirmatively pleading that the sole relief sought is a money judgment and that all claims  
22 (other than counterclaims) for all damages by or against any one party total \$75,000 or less,  
23 including damages of any kind, penalties, pre-filing interest, and attorneys' fees, but excluding  
24 pre-judgment interest accrued after the filing date, post-judgment interest, and costs.

25  
26 *d. Default rules.* Except as otherwise specifically provided by this rule, the Iowa Rules of  
27 Civil Procedure remain applicable to expedited civil actions.

28  
29 *e. Limitation on damages.* A party who files a suit that proceeds under this rule may not  
30 recover a judgment in excess of \$75,000, excluding pre-judgment interest that accrues after the  
31 filing date, post-judgment interest, and costs. The jury, if any, shall not be informed of the  
32 \$75,000 limitation. If the jury returns a verdict for damages in excess of \$75,000, the trial court  
33 shall reduce the verdict to \$75,000.

34  
35 *f. Stipulated expedited civil action.* A civil action not eligible under section (a) of this rule  
36 and not excluded by section (b) of this rule, may proceed as an expedited civil action upon the  
37 parties' filing of an "Agreement for Expedited Civil Action and Request for Approval." If the  
38 court approves the parties' request, and unless the parties have otherwise agreed, the parties will  
39 not be bound by the \$75,000 limitation on judgments contained in section (e) of this rule. The  
40 parties may enter into additional written stipulations regarding damages and attorneys' fees. The  
41 agreement or its existence must not be disclosed to the jury.

1 *g. Termination of expedited civil action.*<sup>1</sup> Upon timely application of any party, the court  
2 may terminate application of this rule and enter such orders as are appropriate under the  
3 circumstances if:

4  
5 (1) The moving party makes a specific showing of substantially changed circumstances  
6 sufficient to render the application of this rule unfair; or

7  
8 (2) A defendant has in good faith filed a compulsory counterclaim that seeks relief other than  
9 that allowed under rule 1.XX1(1)(a) and that renders application of this rule unfair.

10  
11 *h. “Side.”* As used throughout this rule, the term “side” refers to all the litigants with  
12 generally common interests in the litigation.

13  
14 **1.XX1(2) *Discovery in expedited civil actions.***

15  
16 *a. Discovery period.* Except upon agreement of the parties or leave of court granted upon a  
17 showing of good cause, all discovery must be completed no later than 60 days before the trial  
18 date.

19  
20 *b. Initial disclosures.* The parties must exchange initial disclosures as required by rule  
21 1.500(1).<sup>2</sup>

22  
23 *c. Limited and simplified discovery procedures.* Except upon agreement of the parties or  
24 leave of court granted upon a showing of good cause, discovery in expedited civil actions is  
25 subject to the following additional limitations:

26  
27 (1) *Interrogatories to parties.* Subject to rule 1.509(4), each side may serve no more than ten  
28 interrogatories on any other side.

29  
30 (2) *Production of documents.* In addition to document disclosures required under rule  
31 1.500(1)(a), each side may serve no more than ten requests for production on any other side  
32 under rule 1.512.

33  
34 (3) *Requests for admission.* Each side may serve no more than ten requests for admission on  
35 any other side under rule 1.510. This limit does not apply to requests for admission of the  
36 genuineness of documents that the party intends to offer into evidence at trial.

37  
38 (4) *Depositions upon oral examination.*

39  
40 1. *Parties.* One deposition of each party may be taken. With regard to corporations,  
41 partnerships, voluntary associations, or any other groups or entities, one representative deponent  
42 may be deposed.

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<sup>1</sup> Proposed Comment: In determining whether to remove a case from the rule governing expedited civil actions, the court should consider factors such as the number of parties and witnesses, the complexity of the legal and factual issues, and whether an interpreter is necessary.

<sup>2</sup> The Committee decided not to modify the content or timing of initial disclosures in expedited civil actions.

1       2. *Other deponents.* Each side may take the deposition of up to two nonparties.

2  
3       *d. Number of expert witnesses.* Each side is entitled to one retained expert in its case-in-  
4 chief, except upon agreement of the parties or leave of court granted upon a showing of good  
5 cause.

6  
7       *e. Motion for leave of court.* A motion for leave of court to modify the limitations provided  
8 in this rule must be in writing and must set forth the proposed additional discovery and the  
9 reasons establishing good cause for its use.

10       **1.XX1(3) Motions.**

11       *a. Motions to dismiss.* Any party may file any motion permitted by rule 1.421. Unless the  
12 court orders a stay, the filing of a motion to dismiss will not eliminate or postpone otherwise  
13 applicable pleading or disclosure requirements.

14       *b. Motions for summary judgment.*

15       (1) *Limited grounds.* Motions for summary judgment under rule 1.981 may be made in an  
16 expedited civil action only upon the following grounds:

- 17       1. To collect on an open account or other liquidated debt.  
18       2. An immunity defense.  
19       3. Failure to comply with Iowa Code section 668.11 or other deadline for disclosure.  
20       4. Any other matter constituting an avoidance or affirmative defense.

21       (2) *Limited number.* Each party may file no more than one motion for summary judgment  
22 under rule 1.981, which motion may include more than one ground authorized under section  
23 (3)(b)(1) of this rule.

24       (3) *Deadline.* Motions for summary judgment under rule 1.981 must be filed no later than 90  
25 days before trial.

26       **1.XX1(4) Procedure for expedited trials.**

27       *a. Demand for jury trial.* Any party who desires a trial by jury of any issue triable of right by a  
28 jury must file and serve upon the other parties a demand for jury trial pursuant to rule 1.902. In  
29 the absence of any such demand for jury trial, expedited civil actions will be tried to the court.  
30

31       *b. Trial setting.* The court administrator must set the expedited civil action for trial during a  
32 designated week, which trial setting will be certain. Unless the court otherwise orders for good  
33 cause shown, expedited civil actions must be tried within one year of filing.  
34

35       *c. Expedited civil jury.* Rules 1.915 and 1.931 are modified as follows with respect to  
36 expedited civil jury trials governed by this rule. Unless otherwise ordered, the jury in an  
37 expedited civil jury trial will consist of six persons selected from a panel of twelve prospective  
38 jurors. Each side must strike three prospective jurors. If the expedited civil jury is unable to

1 reach a unanimous verdict after deliberating for a period of not less than three hours, the verdict  
2 can be rendered by a five juror majority. Where there are more than two sides, the court in its  
3 discretion may authorize and fix an additional number of jurors to be impaneled and strikes to be  
4 exercised.

5  
6 *d. Expedited bench trial.* The court trying an expedited civil action without a jury may, in its  
7 discretion, dispense with findings of fact and instead render judgment on a general verdict,  
8 special verdicts, or answers to interrogatories that are accompanied by relevant legal instructions  
9 that would be used if the action were being tried to a jury.<sup>3</sup>

10  
11 *e. Pretrial submissions.* In addition to the pretrial submissions rules 1.500(3) and 23.5—  
12 Form 2(8) require, the parties must jointly file one proposed set of jury instructions and verdict  
13 form in all actions tried under this rule.<sup>4</sup> If a jury instruction or verdict form is controverted,  
14 each side must include its specific objections, supporting authority, and, if desired, a proposed  
15 alternative instruction or verdict form for the court’s approval, denial, or modification. Both  
16 stipulated and alternative proposed jury instructions and verdict forms must be set forth in one  
17 document that is filed electronically in word processing format with the court.

18 *f. Time limits for trial.* Expedited civil actions should ordinarily be submitted to the jury  
19 within two business days of trial. Unless the court allows additional time for good cause shown,  
20 each side is allowed no more than six hours to complete jury selection, opening statements,  
21 presentation of evidence, examination and cross-examination of witnesses, and closing  
22 arguments. Time spent on objections, bench conferences, and challenges for cause to a juror is  
23 not included in the time limit.

24  
25 *g. Evidence.*

26  
27 (1) *Stipulations.* The parties should stipulate to factual and evidentiary matters to the greatest  
28 extent possible.

29  
30 (2) *Documentary evidence admissible without the need for certification or testimony by*  
31 *custodian.* The district court may overrule objections based on authenticity and hearsay to the  
32 admission of a document, notwithstanding the absence of testimony or certification from a  
33 custodian or other qualified witness, if:

34  
35 1. The party offering it gives notice to all other parties of the party’s intention to offer such  
36 document into evidence at least 90 days in advance of trial. Such notice must be given to all  
37 parties together with a copy of any document that is intended to be offered.

38  
39 2. The record on its face appears to be what the proponent claims it is.

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<sup>3</sup> This provision is intended to conserve judicial time and resources by giving the trial court discretion to dispense with findings of fact and conclusions of law and instead render a verdict as if the court were sitting as a “jury of one.” The use of legal instructions and a verdict form in lieu of findings of fact and conclusions of law permit appellate review of the bench trial ruling. Unless otherwise ordered by the court, the parties should jointly submit one proposed set of legal (jury) instructions and a verdict form to the court trying the case without a jury. *See* rule 1.XX1(4)(e).

<sup>4</sup> Unless otherwise ordered by the trial court, parties must jointly submit proposed jury instructions and a verdict form in both expedited bench trials and expedited civil jury trials.

1 3. The record on its face appears not to be hearsay or appears to fall within a hearsay  
2 exception set forth in Iowa R. Evid. 5.803 (3), (4), (6), (7), (8), (9), (10), (11), (12), (13), (14),  
3 (15), (16), (17), or (22).

4  
5 4. The objecting party has not raised a substantial question as to the authenticity or  
6 trustworthiness of the document.

7  
8 5. Nothing in this rule affects the operation of other rules of evidence such as rules 5.402,  
9 5.403, and 5.404.

10  
11 6. Nothing in this rule authorizes the admission of a record that contains hearsay within  
12 hearsay, unless the court determines from the face of the document that each part of the  
13 combined statements conforms with an exception to the hearsay rule set forth in section  
14 4(g)(2)(3).

15  
16 **Comment:** The purpose of rule 1XX1(4)(g)(2) is to streamline the presentation of records such as medical and  
17 business records at trial by allowing them to be admitted without a sponsoring witness to establish authenticity and  
18 the elements of a hearsay exception.

19 This rule authorizes the district court to review the record on its face and to admit it subject to other objections,  
20 such as relevance, upon a determination that the record appears to be genuine and appears not to be hearsay or to fall  
21 within one of several enumerated hearsay exceptions, such as statements for purpose of medical diagnosis or  
22 treatment, records of regularly conducted activity, or public records and reports (rules 5.803(4), (6) & (8)).

23 If the record from appearances looks genuine and looks as if it would qualify for one of these hearsay exceptions,  
24 the burden shifts to the other side to raise a substantial question as to its authenticity or trustworthiness.

25 This rule may only be used if the proponent of the record has given notice to other parties sufficiently in advance  
26 of trial of its intent to rely on this rule, while serving a copy of the record.

27  
28 (3) *Care provider statement in lieu of testimony.*

29  
30 1. The report of a health care provider concerning the claimant may be used for all purposes  
31 in lieu of deposition or in-court testimony of such care provider, provided that the report so  
32 offered into evidence is on the “Care Provider Statement in Lieu of Testimony” form adopted by  
33 the supreme court, and is signed by the care provider making such report.

34  
35 2. The report is not admissible unless a copy of the report has been served on all parties at  
36 least 150 days in advance of trial.

37  
38 3. Any party against whom a medical report may be used has the right, at the party’s own  
39 initial expense, to cross examine by deposition the care provider producing the report, and the  
40 deposition is admissible as evidence in the trial.

41  
42 **1.XX1(5) Settlement conference; alternative dispute resolution.** Unless the parties have  
43 agreed to engage in alternative dispute resolution or are required to do so by contract or statute,  
44 the court shall not, by order or local rule, require the parties to engage in a settlement conference  
45 or in any other form of alternative dispute resolution.

46  
47 **See next page for Care Provider Statement**

# Care Provider Statement in Lieu of Testimony

Patient Name: \_\_\_\_\_

Type of Incident: \_\_\_\_\_

Date of Incident: \_\_\_\_\_

Please answer the following questions with information and opinions regarding the named patient.

- 1) What degrees and board certifications do you hold, and what year was each attained?  
Alternatively, you may attach your curriculum vitae.
- 2) What injuries, if any, did [PLAINTIFF] sustain in the above-referenced incident?
- 3) Did [PLAINTIFF] have any pre-existing, symptomatic conditions that were aggravated by the injuries sustained in the incident? If so, describe the pre-existing conditions and the extent of their aggravation.
- 4) Did [PLAINTIFF] have any pre-existing, non-disabling, non-symptomatic conditions that became symptomatic as a result of the incident? If so, please describe.
- 5) What treatment has [PLAINTIFF] received that was necessitated by the injuries sustained in the incident? Please include treatment provided by other care providers, to the extent you are aware of such. Include medications prescribed, therapy recommended, surgery recommended and any other treatments needed as a result of this condition.
- 6) Have there been or are there any restrictions or limitations placed on [PLAINTIFF] due to injuries sustained in the incident? If so, please describe them, including the actual or expected duration of the restrictions or limitations.
- 7) Has [PLAINTIFF] made a full recovery from the injuries sustained in the incident? If not, what are your expectations for [PLAINTIFF'S] future symptoms and the duration of such?
- 8) Is there any additional care or medications that may reasonably be required in the future as a result of the injuries sustained in the incident? If so, please describe the expected care, including the expected frequency, duration, and cost.
- 9) Is [PLAINTIFF] now susceptible to further health problems in the future as a result of injuries sustained in the incident? If so, please explain.
- 10) Is there anything [PLAINTIFF] has done or failed to do that has aggravated [PLAINTIFF'S] condition or impaired [PLAINTIFF'S] recovery?
- 11) Have you reviewed or relied upon any medical records other than those generated by you or other providers in your office in forming your opinions to the answers to the questions above? If so, identify or attach the records that you have reviewed and relied upon in forming your answers.

1 12) Have you relied upon any other documents or information about [PLAINTIFF] or the incident,  
2 other than the records indicated above? If so, please state what documents or information you  
3 relied upon, and the manner by which you received it.

4 13) Have you or anyone in your office had any oral, written, or electronic communications with  
5 [PLAINTIFF]'s legal counsel or anyone in that counsel's office, regarding this matter? If so, identify  
6 the date of each such communication and, if the communication was written or electronic, attach  
7 copies of such communications.

8 I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true  
9 and correct.

10 \_\_\_\_\_

11 Date

\_\_\_\_\_

Signature

12

\_\_\_\_\_

13

Printed Name

14

15