

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

CHAPTER 1

RULES OF CIVIL PROCEDURE

* * * *

(proposed new rule)

Rule 1.1702 Uniform Interstate Depositions and Discovery Rule.

1.1702 (1) Definitions. In this rule:

a. "Foreign jurisdiction" means a state other than Iowa.

b. "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

c. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

d. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

e. "Subpoena" means a document, however denominated, issued under authority of a court of record of Iowa requiring a person to:

(1) Attend or give testimony at a deposition;

(2) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(3) Permit inspection of premises under the control of the person.

1.1702 (2) Issuance of subpoena.

a. To obtain issuance of a subpoena under this rule, a party to a proceeding in a foreign jurisdiction must either (i) request a signed, blank subpoena from the clerk of an Iowa court pursuant to rule 1.1701(2) or (ii) arrange for an attorney who is retained by that party and who is licensed or otherwise authorized to practice law in Iowa to issue and sign the subpoena as an officer of the court pursuant to rule 1.1701(2). Obtaining and completing a subpoena under rule 1.1702 does not constitute an appearance in the courts of this state.

b. When a party submits a foreign subpoena to a clerk of court in this state, the clerk, pursuant to rule 1.1701(2), shall provide the party with a subpoena that is signed but otherwise blank.

c. A subpoena under this rule must:

(1) Comply with rule 1.1701(1), provided, however, that for purposes of subsection 1.1701(1)(a), the Iowa court shall be listed as the court from which the subpoena is issued, and for purposes of subsection 1.1701(1)(b), the title of the action and its docket number from the foreign jurisdiction shall be used;

1 (2) Contain or be accompanied by the names, addresses, and telephone
2 numbers of all counsel of record in the proceeding to which the subpoena
3 relates and of any party not represented by counsel; and

4 (3) Include a copy of the foreign subpoena as an attachment.

5 d. Form 13 of rule 1.1901 may be used and shall be sufficient under this
6 rule, so long as the information required by rule 1.702(2)(c)(2) is included or
7 appended, and a copy of the foreign subpoena is attached as required by rule
8 1.702(2)(c)(3).

9 **1.1702 (3) Service of subpoena.** A subpoena issued under rule 1.1702(2)
10 must be served in compliance with rule 1.1701(3).

11 **1.1702 (4) Deposition, production, and inspection.** Rule 1.1701(4)-(7) applies
12 to subpoenas issued under rule 1.1702(2).

13 **1.1702 (5) Court File and Docket Number.** The clerk or attorney may issue
14 a subpoena without an Iowa court file being opened or a docket number
15 assigned. If action is taken pursuant to rule 1.1702(6), the clerk shall open a
16 miscellaneous court file.

17 **1.1702 (6) Motion to court.** A motion to the court for a protective order or to
18 enforce, quash, or modify a subpoena issued under rule 1.1702(2) must comply
19 with the rules or statutes of this state and be submitted to the court in the
20 county in which discovery is to be conducted. Such a motion shall be treated
21 as a motion for an order to show cause in a civil case and the filer shall be
22 charged the applicable filing fee as set forth in Iowa Code section 602.8105.
23 This fee shall be recoverable by the successful party against the losing party.
24 In addition, the provisions of rule 1.517 apply to motions brought under this
25 rule. An attorney who files such a motion or a resistance thereto must be
26 eligible to appear in the courts of Iowa.
27